Broadband Deployment Advisory Committee

Streamlining Federal Siting Working Group

Weekly Meeting Agenda

November 1, 2017

I. Roll Call

II. Update on FCC Timeline and Approach for Next Full BDAC Meeting

III. Discussion on Including BLM Example in Report
   a. Submission on delay examples
   b. Siting to DOI Secretarial Order 3355 Streamlining NEPA and Implementation of EO 13807

IV. Vote on Report

V. BDAC WG Presentation Preparation

VI. Next Steps
   a. Frequency of meetings
   b. Updating the report
   c. Getting federal agency buy-in

Next Meeting Date: November 8, 2017

BROADBAND DEPLOYMENT ADVISORY COMMITTEE: STREAMLINING FEDERAL SITING WORKING GROUP

AMENDED FINAL REPORT, NOV. 9, 2017

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SUMMARY OF CHALLENGES AND SOLUTIONS

1. *Challenge*: Varying and unpredictable fees and rates.
   Solution: Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes.

2. *Challenge*: Lengthy application review times.
   Solution: Require all federal landholding or managing agencies to prioritize broadband permitting. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.

3. *Challenge*: Unharmonized application forms and unpredictable processes across agencies.
   Solution: Require all federal landholding or managing agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.

4. *Challenge*: Cumbersome historic and environmental review processes including environmental studies and Geographic Information System studies.
   Solution: Harmonize environmental assessments across federal landholding or managing agencies, further streamline National Environmental Protection Act and National Historic Preservation Act exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.

5. *Challenge*: Lease and renewal terms that do not incentivize investment.
   Solution: All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment.

6. *Challenge*: Unclear points of contact for local, state, and federal leads for agencies.
   Solution: Every project should have a single, clear point of contact for application review and follow-up.

7. *Challenge*: Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history.
   Solution: There should be a single, easily accessible online-tracking mechanism at each federal agency for the permitting process. All agencies should regularly report on permit status, the number of permitting applications they have processed, and on coverage gaps.

8. *Challenge*: Lack of re-evaluation of processes and fees as technologies evolve.

Solution: The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.

9. *Challenge*: Department of Defense Siting Process is costly and time-consuming.
   Solution: permitting Consistent with all necessary measures to protect national security, Department of Defense (DoD) agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their military base broadband deployment permitting practices on DoD real estate. DoD agencies should streamline their spectrum clearance processes.

10. *Challenge*: Siting barriers caused by federal funding clauses.
    Solution: Deploying broadband is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

INTRODUCTION

The Federal Communications Commission (FCC or Commission) Broadband Deployment Advisory Committee, Streamlining Federal Siting Working Group (Working Group) applauds the Commission's interests in removing regulatory barriers to broadband deployment on federal lands and property, which amounts to nearly 30 percent of the U.S. landmass. As Chairman Pai correctly noted, "[broadband is] becoming the 21st-century gateway to jobs, health care, education, information, and economic development everywhere, from the smallest town to the largest city."[1] Developing recommendations to improve the process of siting on federal lands and federally managed properties, as this Working Group has been tasked,[2] will incentivize investment in the deployment of next-generation broadband that will enhance public safety and enable smart solutions in communities across the country.

The Working Group recommends that the FCC evaluate the solutions herein presented to determine which government entity(ies) should effectuate and implement the proposed action. The Working Group encourages the FCC to continue in its advisory capacity to the Broadband Interagency Working Group (formerly the Broadband Opportunity Council) to provide broadband infrastructure policy expertise and ensure that the recommendations herein contained are implemented effectively.

Through its deliberations, the Working Group found that the fundamental concerns regarding the streamlining of federal siting are 1.) predictability and complexity of the application process and accompanying requirements and 2.) the application review time.

[1] *Chairman Pai Forms Broadband Deployment Advisory Committee*, FCC News Release (Jan. 31, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-343242A1.pdf.

[2] By the direction of FCC staff, the Streamlining Federal Siting Working Group was instructed not to include Tribal lands in the Working Group's deliberations and recommendations.

RECOMMENDED SOLUTIONS TO ADDRESS FEDERAL SITING CHALLENGES

1. Varying and unpredictable fees and rates

The Working Group recommends that all administrative fees associated with federal siting applications should be set at a national level. Additionally, all federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to providers to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.

Security deposit requirements also vary and are unpredictable. Working Group members agree that requirements for a security deposit are misplaced prior to the lease or easement negotiation stage. While an application fee is reasonably required with the proposed form, it would be highly unusual and burdensome to require a security deposit prior to negotiation and execution of a lease or easement. As a practice, security deposits are generally collected from credit poor, unknown tenants, in contrast to the broadband providers who have decades of experience across the country with federal civilian and military sites. Therefore, there should be no need for security deposits. Artificially increasing the cost of deploying broadband infrastructure is contrary to the national policy of accelerating broadband availability. However, should a deposit be required, deposits should be refunded if an agreement is not executed due to no fault of applicant.

Additionally, the Working Group recommends that federal agencies utilize predictable measurers for rent increases such as annual Consumer Price Index or fixed percent increases. Fair market appraisal updates should be conducted every ten years instead of every five years. Also, an agency should not require a provider to share with the agency the revenue it obtains from subsequent collocators. Where a military installation is the sole or primary beneficiary of the infrastructure, agencies should allow for rent elimination or in-kind rent reduction.

Because many federal agencies express that staff constraints are a cause of delay in reviewing siting applications, the Working Group recommends that all federal agencies should receive more of the revenue they generate from broadband deployment. Agencies can use the revenue retained to hire more staff to focus on their communications site programs to improve response times and enable other efficiencies. Similarly, there should be reasonable revenue share for broadband infrastructure siting between agency headquarters and field offices. Field offices gaining revenue from the applications they process may provide incentives to streamline the application process and review more applications.

The Working Group discovered that not all equipment deployed on federal lands and property receive the same review scrutiny as broadband infrastructure. Agencies should ensure that broadband service is treated similarly to utilities deployed on federal lands, which typically receive faster approvals at lower costs.

2. Lengthy application review times

In keeping with the national goal of ensuring that "all people of the United State have access to broadband capability"[3] and whereas there is national agreement to eliminate barriers to broadband infrastructure deployment,[4] Congress should mandate that all federal agencies prioritize broadband permitting and implement funding and application review changes that reflect the prioritization of broadband deployment.

Infrastructure providers report delays in broadband permitting application processing across federal agencies. For example, InterConnect Towers (ICT), a wireless infrastructure provider that has been providing wireless coverage on federal land since 1998, provided data to the Working Group that ICT alone has 30 serialized Bureau of Land Management applications across California, Nevada, and Arizona that have been pending since 2013.[5]

The Department of Interior (DOI) is working to streamline its infrastructure project review processes as evidenced by the recent release of its Order "Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," which creates a target for each DOI bureau to "complete each Final [Environmental Impact Statements] for which it is the lead agency within 1 year from the issuance of a Notice of Intent (NOI) to prepare and EIS."[6] However, Working Group members agree that all federal landholding and managing agencies can do more to reduce review times in all of their broadband permitting steps.

Consequently, the Working Group urges the FCC to emphasize that timely responses to broadband siting applications are mandatory. Consistent with GSA Bulletin FMR 2007-B2, agencies should be required to process and respond to each application within a specified time period – no more than 60 days. Additionally, applications should be "deemed approved" upon passage of time. Expanding broadband is a very important national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, federal agencies should apply the FCC's deemed approved policy whereby applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency-specific statutory authority to provide a deemed approved remedy).[7] These timeframes are the

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[3] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009).
[4] *Broadband: Deploying America's 21st Century Infrastructure: Hearing Before the Subcomm. on the Communications and Technology of the H. Comm. on Energy and Commerce Committee*, 115th Cong. (Mar. 17, 2017) (Majority Subcomm Staff Memorandum to Members), available at http://docs.house.gov/meetings/IF/IF16/20170321/105740/HHRG-115-IF16-20170321-SD002-U1.pdf.
[5] *See*, Comments of Interconnect Towers LLC, DOI Docket No. 2017-0003-0191, at 2, 13 (filed October 10 2017) (noting "ICT alone, for example, has 30 serialized applications across California, Nevada, and Arizona that have been pending since 2013 (See Attachment A)").
[6] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, Section 4.a.(2), (Dep't of Interior Aug. 31, 2017), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.
[7] *See* Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act"), Pub. L. No. 112-96, 126 Stat. 156, 232-33 § 6409(a) (2012) ("Spectrum Act") (codified at 47 U.S.C. § 1455(a)). *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865, 12866-67 ¶ 3 (2014) ("*2014 Wireless Infrastructure Order*"), *aff'd*, *Montgomery County v. F.C.C.*, 811 F.3d 121 (4th Cir. 2015).

same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment.[8] Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting wireline and wireless broadband throughout all federal properties.

The Working Group recommends that if requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The federal agency should notify the applicant within ten days of receipt of the application if the agency believes the application is not materially complete and it needs to be amended or modified. The agency should identify the specific form for incompleteness. The applicant should submit the revised application within 60 days of being notified of the error. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Sites sometimes go into holdover status after completion of a lease term but before renewal. Therefore, the Working Group also recommends that application review priority be given to site permit agreements that are expired or soon to expire.

Additionally, efficiencies would be gained if federal agencies are able to use the applicant's diligence to shorten approval times and reduce costs. For instance, rather than perform all portions of the application review itself, a federal agency could use recent site inspection photos to supplement its own inspection process. The reviewing agency could also use National Environmental Policy Act (NEPA) reviews and other regulatory studies completed recently by the applicant. There should be a formalized process for agencies to utilize past NEPA review materials regardless of which agency conducted the review.

Similarly, the Working Group recommends the development of formalized guidance on scenarios in which a project is likely to involve multiple agencies. The lead agency reviewing the application should highlight and coordinate with the other agencies that should be involved.

To further expedite the application process, agencies should automatically accept document revision requests to correct obvious clerical errors within an application. A common clerical error requiring application correction is an incorrect/incomplete entity name in the preamble, body, and/or signature block of an application. Additionally, document preparers should have flexibility in cases where applicants are reasonably unable to comply with specific provisions. The most common example involves the insurance provisions. Often, the federal insurance requirements are not commercially available, but the agencies are unable to revise the requirements for them in the application. Specifically, the government unrealistically requires "per occurrence" insurance coverage amounts in lieu of adequate coverage in the aggregate.

[8] The FCC is currently reviewing comments about expanding the applicability of "deemed approved" proposals. Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, *Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment*, FCC 17-38 (rel. Apr. 21, 2017) ¶¶ 8-9. Any "deemed approved" remedy adopted by the FCC should be the standard applied by all federal agencies.

The Working Group also recommends that federal agencies presume broadband siting applications to be consistent with each agency's mission and property use. Consistent with Section 704 of the Telecommunications Act, applications to place communications facilities should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and complete conflict with an agency's mission. The existence of other providers' wireline and/or wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its property. If the executive agency rejects an application because it is in direct conflict with the agency's mission or use of its property, the executive agency should provide in writing all factual bases proving that the application is in direct and complete conflict with the agency's mission or use of its property. Those factual bases should be provided to the provider in writing, concurrently with the rejection.

Having pre-approved installation types with the ability to make minor pre-approved changes would lessen the burden on the agency for approval and will result in faster installation for the service provider. The Working Group encourages agencies to use Program Comments, Programmatic Environmental Assessments, or other vehicles to identify categories of facilities to apply streamlined approval.[9] Pre-approved installation types could vary based on the type of agency and the nature of the site region or specific location. These pre-approved installation types could be listed on the agencies website or documentation. This would also allow the agency to promote certain types of installations they prefer by making the approval and permitting process for those particular types of installations streamlined.

3. Unharmonized application forms and unpredictable processes across agencies

Unharmonized application forms

The Working Group recommends that there be one required, standardized siting permit application form for agencies to use with elements that apply to specific agencies. Agencies should work with industry to create standard templates to be applied across all agencies and within the different offices within each agency.

In 2015, the General Service Administration released its Wireless Telecommunications Company Application (GSA Common Form Application) to serve as a common application "for use by all land-holding executive agencies, streamlin[ing] the collection of business information that will be used by the Federal Government to negotiate specific antenna installation contracts and to obtain a point of contact for each applicant."[10] Being over two years out from release, agencies and industry should evaluate the effectiveness of the GSA Common Form Application. The Working Group proposes that GSA revise its Common Form Application as follows:

- *GSA should require each agency to provide a contact person for handling applications related to each property.* Under the Section "Potential Antenna Lessee Document Check List,"

[9] *See* Advisory Council on Historic Preservation (ACHP), Program Comment for Communications Projects on Federal Lands and Property (May 8, 2017), available at http://www.achp.gov/docs/broadband-program-comment.pdf (ACHP Program Comment).

[10] General Service Administration, Wireless Telecommunications Company Application (current revision Sep. 2015), available at https://www.gsa.gov/forms-library/wireless-telecommunications-company-application.

the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process.

o *A single online tracking mechanism should be utilized.* GSA should require documentation of an online application tracking mechanism for each agency so that the agenc(ies) and applicant can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate offices responsible for each broadband siting application, along with point of contact information.

o *RFI certification report requirement should be clarified.* A Radio Frequency Identification (RFI) certification report is listed as a potential document that may be required under the common application Document Check List. This section should be clarified to state that RFI reports are not required outside of military installations. Such reports have not been necessary over decades of industry experience, and there is no need to add an additional report that has not been required previously.

o *The application form should not implicate a JSC review for commercial providers of unlicensed wireless services*. An FCC license is typically not required to operate unlicensed wireless services for operations that meet certain FCC requirements for unlicensed use of spectrum, such as non-interference and power limits. Therefore, unlicensed use that meets this standard should not be subjected to additional spectrum reviews, such as the Joint Spectrum Center (JSC) review. The Defense Information Systems Agency operates JSC as a required process by GSA and the Department of Defense to identify and mitigate electromagnetic interference to base electronics and spectrum-dependent systems before approving a commercial wireless system installation. The actions GSA takes with the common application in proposing a common application form for siting wireless facilities on federal land or buildings should not trigger a JSC review for commercial providers of unlicensed wireless services.

o *"Federal, state and local statutory recording requirements" should be clarified or deleted.* This section should be clarified to either describe exactly what is being required, or it should be omitted. Recording requirements may be a protection or benefit to the applicant. However, to the extent this type of document has not been required previously, it should not impose a new requirement on providers.

o For the reasons discussed in the fees and rates section above, all *requirements for a security deposit should be eliminated at the application stage.*

o *Requirements for a performance bond should be eliminated.* The requirement for a performance bond has not been a common practice in federal wireline or wireless siting, and adding this new requirement at the application stage is both unnecessary and contrary to the policy objective of removing obstacles to accelerated broadband investment and availability. This is especially true when a national wireless provider is the applicant, and there has been no showing that a performance bond is necessary for these providers or any others at the application stage.

- *Certain information requested is too broad.* The requested fields of "Name of Officers, Members, or Owners of Concern, Partnership, etc.," "Federal EIN / State Tax ID," and "D&B Rating," lie outside of normal business purposes. The requested "FCC License" information field would not apply to certain applicants, namely, neutral-host wireless providers. The "Person Authorized to Sign Contracts" information is too detailed; there is no reason to provide detailed contact information for someone who will not be handling the day-to-day issues at the site. Moreover, most companies have multiple potential signing parties, but this form only allows for one. Finally, more feedback on what numbers 1 and 7 are meant to reference on the "Potential Document Check List" would be helpful to applicants.

- *GSA should clarify the title of the proposed common form application.* In its request for public comments, GSA referred to the proposed application as the "Wireless Telecommunications Industry Application"; however, the application form is titled "Wireless Telecommunications Company Application." For clarity and consistency, GSA should clarify the title of the common form application.

- *Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way.* Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right-of-way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new wireless infrastructure requests, and for amendments to existing wireless infrastructure.

Unpredictable processes across agencies

The Working Group urges that broadband infrastructure siting processes should be harmonized across agencies to the extent possible. Also, there should be consistency in how files are processed by the various offices within each agency. Each agency should create a uniform process within each of its regional, state, and field offices.

To ease the burden of the applicant communicating with multiple agencies involved with a site with their varying processes, the Working Group recommends a standardized approach to mapping out which agencies will be involved with a project early on in the application process. There should be a process to ensure that relevant information is shared with the federal agencies involved. Such a system can be executed through the GSA Common Form Application or a similar common application if there is a field on the application to check a box for potentially involved agencies. GSA should mandate standard template contract(s) that apply across all federal agencies. These contracts should be executable in 30-60 days.

Additionally, the Working Group suggests that agencies measure the number of contracts they sign for new sites and new carriers on existing sites. Tracking executed contracts will help measure whether broadband deployment is in fact increasing on federal lands and property. There should be incentives for agencies approving applications. One such incentive could be that agencies receive partial fee retention through, for example retaining initial rents.

All federal agencies with land management authority should update and harmonize their rights-of-way rules. For example, Department of Interior agencies should update its rights-of-way rules to align to the Bureau of Indian Affairs updated rights-of-way rules with respect to application timelines, effective in 2016. Each agency should conduct a thorough evaluation of their siting rules and processes and streamline them to reduce burdens and encourage investment in broadband deployment. Certain federal land management agencies follow regulations that require infrastructure providers to hold FCC licenses or utilize agreements with the same requirement. These provisions are holdovers from when licensed carriers constructed their own infrastructure.

Policy changes such as allowing applicants to opt in to the rates, terms, and conditions of other providers located at the federal property would encourage investment. Once a federal property is opened for any telecommunications provider, then the property should be open to any and all other providers, without delay, on a non-discriminatory basis to the extent feasible by engineering standards. For example, if one provider's equipment is located on a water tank, then a subsequent provider should be permitted to collocate, as engineering permits, on that same water tank in a substantially similar, but not necessarily identical fashion, opting into the rates, terms and conditions of the initial provider's lease or easement or other legal arrangement. This procedure is consistent with, and may be required by, the anti-discrimination requirement in Section 704(c) of the Telecommunications Act.

Additionally, access to federal lands sites for wireless infrastructure development should be available to tower owners, operators, managers, and other authorized personnel, where applicable. Obvious exceptions for security reasons aside, infrastructure providers need to be able to access the sites quickly, especially in the case of emergencies. Federal agencies should be directed to recognize tower operator sublease and management interests. Some agencies do not consider that tower operators lease or manage a significant number of towers that are still owned by the carriers.

4. Cumbersome historic and environmental review processes

The Working Group recommends that environmental assessments be harmonized across agencies to reduce confusion and redundancy. Environmental impact studies should be valid for a reasonable amount of time so they do not have to be redone. Where surveys or other studies are completed as part of the environmental review, those findings should be available to federal agencies and applicants to use during the reasonable time period.

All federal agencies should ease permitting requirements in previously disturbed areas that have previously undergone environmental review. All federal agencies should streamline their National Historic Preservation Act (NHPA) historic preservation review process by finalizing a list of broadband activities exempted from Section 106 consultation. The Working Group recommends that the FCC expand E106 & FCC Tower Construction Notification System program. All federal agencies should also finalize NEPA categorical exclusions that will exempt broadband projects from Environmental Assessments for sites that involve, for example, cell site compounds, aerial cable, and previously disturbed grounds.

The Advisory Council on Historic Preservation (ACHP) should clarify applicability of its new *Program Comment for Communications Projects on Federal Lands and Property*[11] to all federal agencies, revising the introduction, "Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope." To avoid confusion, "may elect" should be struck and ACHP should affirmatively require the use of the Program Comment by all federal agencies. The Working Group recommends the following additional changes to the Program Comment:

1. The Program Comment should be revised to apply to all Federal Land Managing Agencies (LMAs) and Federal Property Managing Agencies (PMAs). As currently drafted, elective utilization of the Program Comment process does not ensure the expedited and efficient siting procedures necessary to better serve the exponentially growing data demands on networks and the underlying infrastructure.
2. Agencies should be required to process and respond to each application within a specified time period—no more than 60 days.
3. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Applicants should have a right to cure their application by making corrections based on written grounds for rejection received.
4. Throughout the application process, Federal LMAs and PMAs should be required to provide application status updates at the request of applicants. Greater transparency during and after the application process has completed will improve the application submission process and will provide documentation for applicants to use with other historic preservation review processes such as the FCC's NEPA review process
5. Applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved. These timeframes are similar timeframes to what the FCC established for municipalities in land use approvals to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years with no action taken by the federal agency, which is contrary to the national policy promoting broadband throughout all federal properties.

Lastly, the Working Group recommends a thorough evaluation of the August 15, 2017 Executive Order 13807 *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*. The Order incorporates "broadband internet" projects in its efforts to "ensure that the Federal environmental review and permitting process for infrastructure projects is coordinated,

[11] ACHP Program Comment.

predictable, and transparent." Agencies should be held accountable to implement the order's directives within a specified time period.[12]

5. Lease and renewal terms that do not incentivize investment

The Working Group recommends that executive agencies utilize easements or leases with 30 or more-year terms with expectancy of renewal for wireline or wireless siting requests. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit telecommunications facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireline or wireless installations, but that easements are an acceptable legal transaction for the placement of wireline and wireless facilities on federal property. Agencies should also be notified that to minimize the cost— on both the agency and the provider—of future siting applications, and given the extensive capital investment of long-lived assets required for the installation of wireline and wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms at least 30 years long and with renewal expectancy.

Ideally, lease terms should extend to the useful life of the assets. The Working Group urges the standardization of lease terms within each type of technology. To avoid holdover leases, agencies should begin the lease renewal process five years in advance of expiration of the lease. Site agreements often expire without a clear path to renewal. Agency rights to terminate leases should be limited to reasons of national security.

6. *Unclear points of contact for local, state, and federal leads for agencies*

The Working Group recommends that GSA, or other designated agency, should require each agency to provide a contact person for handling applications related to each property. Under GSA's Common Form Application Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process. This process should also apply to wireline broadband installations.

Each federal agency should designate a state contact that covers each state to ensure consistency across field offices, forests, and national parks. Additionally, each federal agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information.

[12] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects* (Dep't of Interior Aug. 31, 2017) (DOI began its Executive Order implementation), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

One government entity, such as NTIA, should consistently compile this information on one online portal.[13]

The Working Group encourages each federal agency to implement an escalation or appeal process when broadband facility requests are delayed or denied. Furthermore, each agency should have an ombudsman to resolve permitting problems. Formalizing this process will ensure more consistent treatment of applications.

7. Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history

As discussed above, agencies should employ a a single online permitting application tracking mechanism. GSA, or other designated federal agency, should require each executive agency to create a single online application tracking mechanism so that the agenc(ies) and applicants can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible, along with contact information, for a specific application. The Working Group encourages the FCC and other federal agencies to review the Administration's Federal Infrastructure Permitting Dashboard,[14] which includes infrastructure projects identified as Covered Projects under Title 41 of the Fixing America's Surface Transportation (FAST) Act, Department of Transportation projects, and other tracked projects. This dashboard is not currently used to track broadband infrastructure projects across federal agencies; however, agencies may find it efficient to track their projects in this manner.

All agencies should provide the applicant with information regarding the standard processing time for permitting at the agency (within the established shot clock) so that providers can schedule construction projects in a timely manner.

The Working Group also urges the FCC or Congress to set executive-level quantifiable goals for broadband deployments such as collecting aggregate, industry-level commitment counts to deploy broadband sites on federal lands, and agencies should publish performance against the goals. Each agency should have an identified direct-reporting lead responsible for implementation by achieving actual deployments. Federal agencies should focus on deployment results, beyond intermediary process changes. Each agency should also create deployment transparency mechanism such as a monthly web post of the number of contracts signed, new deployments, and new carriers deployed on existing sites. Every quarter, federal agencies should transparently report the number of permitting applications they have processed.

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[13] *See* National Telecommunications Information Administration (NTIA), Broadband Interagency Working Group, Broadband Opportunity Council Agencies' Progress Report (Dep't of Commerce Jan. 2017) (NTIA's BroadbandUSA website will house a one-stop portal), available at https://www.ntia.doc.gov/files/ntia/publications/broadband_opportunity_council_agencies_progress_report_jan2017.pdf.

[14] *See* Federal Infrastructure Permitting Dashboard, available at https://www.permits.performance.gov/projects.

All federal Agencies should provide a regular report to identify coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as "telecom areas" would also be helpful. Agencies can call for public input in identifying these areas. Such reporting will enable agencies to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost and afford a platform to discuss solutions to these challenge

8. Lack of re-evaluation of processes and fees as technologies evolve

The Working Group recommends that application forms be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way. Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA Common Form Application for new broadband infrastructure requests, and for amendments to existing broadband infrastructure.

The Working Group also urges federal agencies to incorporate small cells, distributed antenna systems (DAS), and indoor coverage into their streamlining processes. There is often a lag between the introduction or increased use of a technology and when federal agencies adopt procedures to process the siting requests. Federal agencies should create a system for how to evaluate new technologies and determine how they should be reviewed for permitting.

9. DoD siting process costly and time-consuming

The Working Group found that siting broadband facilities on Department of Defense (DoD) property presents unique challenges. Consistent with all necessary measures to protect national security, DoD agencies should streamline deployment as indicated in the above recommendations but in keeping with national security interests.

The DoD should reexamine rules and policies regarding the permitting and deployment of broadband within bases and on all DoD real estate, including separate authorizations required for services offered over the same facilities. In some cases, cable operators have been prohibited from deploying Wi-Fi facilities for use by Americans living on military bases.

The Department of the Navy (DoN) is a good example of a DoD agency that completed a thorough example of its permitting processes and executed a path towards streamlining broadband deployment on its property. Industry successfully collaborated with the DoN for two years on the development and

release of its memorandum titled "Streamlined Process for Commercial Broadband Deployment," (Navy Memo) which was signed by the Deputy Under Secretary of the Navy (DUSN) for Management on June 30, 2016.[15] The new guidelines "set a goal for DON installation to meet or exceed national averages for broadband coverage and capacity," according to the official memorandum. According to the Wireless Infrastructure Association, which coordinated industry participation, "the new wireless facility siting procedures cut down a project coordination and siting deployment process that could take up to five or more years to complete to less than one year."[16]

The DoN is now evaluating an update to its memo to incorporate small cells, DAS, and indoor deployments into its streamlining processes. Other DoD agencies should evaluate the effectiveness of the Navy Memo process and implementation as they develop their own broadband infrastructure siting review process.

The Working Group urges DoD agencies to employ shorter and parallel process steps, particularly making JSC review concurrent with the RFP process. Agencies should accelerate the JSC pre-work, application-to-bid mechanism to less than 30 days. Agencies should also streamline the RFP process by moving it online, reducing processing to 30 days, and allowing multiple carriers "to win" per each RFP.

Military agencies should also streamline their RF spectrum clearance processes by eliminating duplicate spectrum interference reviews where one has already been completed for a similar instillation. RF clearance should be valid for an extended period of time. Additionally, agencies should incorporate all possible spectrum bands for operation into the initial RF study so that providers do not have to repeatedly conduct studies for new deployments or new carriers being added to the neutral host.

10. Siting barriers caused by federal funding clauses

The Working Group found that some states impose restrictions on broadband infrastructure deployment in local parks developed with federal funds. For example, Virginia has a restriction that:

> property acquired or developed with LWCF [Land & Water Conservation Fund Act of 1965] assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired and/or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act.[17]

Site reviewers in Virginia are interpreting this law as prohibiting wireless infrastructure deployment, labeling such deployment as a prohibited commercial endeavor. It is not likely that the provision of broadband services is the type of activity the Land and Water Conservation Fund Act of 1965 was trying

[15] Dep't of the Navy, Deputy Under Secretary of the Navy Memo, *Streamlined Process for Commercial Broadband Deployment* (Jun. 30, 2016), available at http://www.doncio navy.mil/ContentView.aspx?ID=8008.
[16] Wireless Infrastructure Association, *Wireless Industry Applauds U.S. Navy's Push to Streamline Wireless Siting Process on Federal Bases* (Jul. 8, 2016), available at https://wia.org/wireless-industry-applauds-u-s-navys-push-streamline-wireless-siting-process-federal-bases/.
[17] State of Virginia, Conversion of Use General Information, available at http://www.dcr.virginia.gov/recreational-planning/document/lwcf-conversion.pdf.

to protect against. Therefore, the Working Group recommends that land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services. All agencies, states, and localities should be advised that deploying broadband is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

BROADBAND DEPLOYMENT ADVISORY COMMITTEE: STREAMLINING FEDERAL SITING WORKING GROUP

REPORT, NOV. 9, 2017

Contents

SUMMARY OF CHALLENGES AND SOLUTIONS

1. *Challenge*: Varying and unpredictable fees and rates
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2. *Challenge*: Lengthy application review times
   Solution: Require all federal landholding or managing agencies to prioritize broadband permitting. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.

3. *Challenge*: Unharmonized application forms and unpredictable processes across agencies
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6. *Challenge*: Unclear points of contact for local, state, and federal leads for agencies
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8. *Challenge*: Lack of re-evaluation of processes and fees as technologies evolve
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9. *Challenge*: Department of Defense Siting Process is costly and time-consuming
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10. *Challenge*: Siting barriers caused by federal funding clauses
    Solution: All federal land grant provisions directly or indirectly precluding broadband deployment should be eliminated

INTRODUCTION AND METHOD FOR FCC INVOLVEMENT

The Federal Communications Commission (FCC or Commission) Broadband Deployment Advisory Committee, Streamlining Federal Siting Working Group (Working Group) applauds the Commission's interests in removing regulatory barriers to broadband deployment on federal lands and property, which amounts to nearly 30 percent of the U.S. landmass. As Chairman Pai correctly noted, "[broadband is] becoming the 21st-century gateway to jobs, health care, education, information, and economic development everywhere, from the smallest town to the largest city."[1] Developing recommendations to improve the process of siting on federal lands and federally managed properties, as this Working Group has been tasked, will incentivize investment in the deployment of next-generation broadband that will enhance public safety and enable smart solutions in communities across the country.

The Working Group recommends that the FCC evaluate the solutions herein presented to determine which government entity(ies) should effectuate and implement the action. The Working Group encourages the FCC to continue in its advisory capacity to the Broadband Interagency Working Group (formerly the Broadband Opportunity Council) to provide broadband infrastructure policy expertise and ensure that the recommendations herein contained are implemented effectively.

Through its deliberations, the Working Group found that the fundamental concerns regarding the streamlining of federal siting are 1. predictability of the application process and accompanying requirements and 2. the application review time.

[1] *Chairman Pai Forms Broadband Deployment Advisory Committee*, FCC News Release (Jan. 31, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-343242A1.pdf.

RECOMMENDED SOLUTIONS TO ADDRESS FEDERAL SITING CHALLENGES

1. Varying and unpredictable fees and rates

The Working Group recommends that all administrative fees associated with federal siting applications should be set at a national level. Additionally, all federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to providers to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.

Security deposit requirements also vary and are unpredictable. Working Group members agree that requirements for a security deposit are misplaced prior to the lease or easement negotiation stage. While an application fee is reasonably required with the proposed form, it would be highly unusual and burdensome to require a security deposit prior to negotiation and execution of a lease or easement. As a practice, security deposits are generally collected from credit poor, unknown tenants, in contrast to the broadband providers who have decades of experience across the country with federal civilian and military sites. Therefore, there should be no need for security deposits. Artificially increasing the cost of deploying broadband infrastructure is contrary to the national policy of accelerating broadband availability. However, should a deposit be required, deposits should be refunded if an agreement is not executed due to no fault of applicant.

Additionally, the Working Group recommends that federal agencies utilize predictable measurers for rent increases such as annual Consumer Price Index or fixed percent increases. Fair market appraisal updates should be conducted every ten years instead of every five years. Also, an agency should not require a provider to share with the agency the revenue it obtains from subsequent collocators. Where a military installation is the sole or primary beneficiary of the infrastructure, agencies should allow for rent elimination or in-kind rent reduction.

Because many federal agencies express that staff constraints are a cause of delay in reviewing siting application, the Working Group recommends that all federal agencies should receive more of the revenue they generate from broadband deployment. Agencies can use the revenue retained to hire more staff to focus on their communications site programs to improve response times and enable other efficiencies. Similarly, there should be reasonable revenue share for broadband infrastructure siting between agency headquarters and field offices. Field offices gaining revenue from the applications they process may provide incentives to streamline the application process and review more applications.

The Working Group discovered that not all equipment deployed on federal lands and property receive the same review scrutiny as broadband infrastructure. Agencies should ensure that broadband service is treated similar to utilities deployed on federal lands, which typically receive faster approvals at lower costs.

2. Lengthy application review times

In keeping with the national goal of ensuring that "all people of the United State have access to broadband capability"[2] and whereas there is national agreement to eliminate barriers to broadband infrastructure deployment,[3] Congress should mandate that all federal agencies prioritize broadband permitting and implement funding and application review changes that reflect the prioritization of broadband deployment.

The Working Group urges the FCC to emphasize that timely responses to applications are mandatory. Consistent with GSA Bulletin FMR 2007-B2, agencies should be required to process and respond to each application within a specified time period – no more than 60 days. The Working Group recommends that if requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The federal agency should notify the applicant within ten days of receipt of the application if the agency believes the application is not materially complete and it needs to be amended or modified. The agency should identify the specific form for incompleteness. The applicant should submit the revised application within 60 days of being notified of the error. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Sites sometimes go into holdover status after completion of a lease term but before renewal. Therefore, the Working Group also recommends that application review priority be given to site permit agreements that are expired or soon to expire.

Applications should be "deemed approved" upon passage of time. Expanding broadband is a critical national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency-specific statutory authority to provide a deemed approved remedy). These timeframes are the same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting wireline and wireless broadband throughout all federal properties.

Additionally, efficiencies would be gained if federal agencies are able to use the applicant's diligence to shorten approval times and reduce costs. For instance, rather than perform all portions of the application review itself, a federal agency could use recent site inspection photos to supplement its own inspection process. The reviewing agency could also use National Environmental Policy Act (NEPA) reviews and other regulatory studies completed recently by the applicant. There should be a formalized process for agencies to utilize past NEPA review materials regardless of which agency conducted the review.

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[2] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009).

[3] *Broadband: Deploying America's 21st Century Infrastructure: Hearing Before the Subcomm. on the Communications and Technology of the H. Comm. on Energy and Commerce Committee*, 115th Cong. (Mar. 17, 2017) (Majority Subcomm Staff Memorandum to Members), available at http://docs.house.gov/meetings/IF/IF16/20170321/105740/HHRG-115-IF16-20170321-SD002-U1.pdf.

Similarly, the Working Group recommends the development of formalized guidance on scenarios in which a project is likely to involve multiple agencies. The lead agency reviewing the application should highlight and coordinate with the other agencies that should be involved.

To further expedite the application process, agencies should automatically accept document revision requests to correct obvious clerical errors within an application. A common clerical error requiring application correction is an incorrect/incomplete entity name in the preamble, body, and/or signature block of an application. Additionally, document preparers should have flexibility in cases where applicants are reasonably unable to comply with specific provisions. The most common example involves the insurance provisions. Often, the federal insurance requirements are not commercially available, but the agencies are unable to revise the requirements for them in the application. Specifically, the government unrealistically requires "per occurrence" insurance coverage amounts in lieu of adequate coverage in the aggregate.

The Working Group also recommends that federal agencies presume broadband siting applications to be consistent with each agency's mission and property use. Consistent with Section 704 of the Telecommunications Act, applications to place communications facilities should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and complete conflict with an agency's mission. The existence of other providers' wireline and/or wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its property. If the executive agency rejects an application because it is in direct conflict with the agency's mission or use of its property, the executive agency should provide in writing all factual bases proving that the application is in direct and complete conflict with the agency's mission or use of its property. Those factual bases should be provided to the provider in writing, concurrently with the rejection.

Having pre-approved installation types with the ability to make minor pre-approved changes would lessen the burden on the agency for approval and will result in faster installation for the service provider. The Working Group encourages agencies to use Program Comments, Programmatic Environmental Assessments, or other vehicles to identify categories of facilities to apply streamlined approval.[4] Pre-approved installation types could vary based on the type of agency and the nature of the site region or specific location. These pre-approved installation types could be listed on the agencies website or documentation. This would also allow the agency to promote certain types of installations they prefer by making the approval and permitting process for those particular types of installations streamlined.

[4] *See* Advisory Council on Historic Preservation (ACHP), Program Comment for Communications Projects on Federal Lands and Property (May 8, 2017), available at http://www.achp.gov/docs/broadband-program-comment.pdf (ACHP Program Comment).

3. Unharmonized application forms and unpredictable processes across agencies

Unharmonized application forms

The Working Group recommends that there be one required, standardized siting permit application form for agencies to use with elements that apply to specific agencies. Agencies should work with industry to create standard templates to be applied across all agencies and within the different offices within each agency.

In 2015, the General Service Administration released its Wireless Telecommunications Company Application (GSA Common Form Application) to serve as a common application "for use by all land-holding executive agencies, streamlines the collection of business information that will be used by the Federal Government to negotiate specific antenna installation contracts and to obtain a point of contact for each applicant."[5] Being over two years out from release, agencies and industry should evaluate the effectiveness of the GSA Common Form Application. The Working Group proposes that GSA revise its Common Form Application as follows:

- *GSA should require each agency to provide a contact person for handling applications related to each property.* Under the Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application . . ." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process.

- *A single online tracking mechanism should be utilized.* GSA should require documentation of an online application tracking mechanism for each agency so that the agenc(ies) and applicant can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate offices responsible, along with contact information, for a specific application.

- *RFI certification report requirement should be clarified.* A Radio Frequency Identification (RFI) certification report is listed as a potential document that may be required under the common application Document Check List. This section should be clarified to state that RFI reports are not required outside of military installations. Such reports have not been necessary over decades of industry experience, and there is no need to add an additional report that has not been required previously.

- *The application form should not implicate a JSC review for commercial providers of unlicensed wireless services.* An FCC license is typically not required to operate unlicensed wireless services for operations that meet certain FCC requirements for unlicensed use of

[5] General Service Administration, Wireless Telecommunications Company Application (current revision Sep. 2015), available at https://www.gsa.gov/forms-library/wireless-telecommunications-company-application.

spectrum, such as non-interference and power limits. Therefore, unlicensed use that meets this standard should not be subjected to additional spectrum reviews, such as the Joint Spectrum Center (JSC) review. The Defense Information Systems Agency operates JSC as a required process by GSA and the Department of Defense to identify and mitigate electromagnetic interference to base electronics and spectrum-dependent systems before approving a commercial wireless system installation. The actions GSA takes with the common application in proposing a common application form for siting wireless facilities on federal land or buildings should not trigger a JSC review for commercial providers of unlicensed wireless services.

o *"Federal, state and local statutory recording requirements" should be clarified or deleted.* This section should be clarified to either describe exactly what is being required, or it should be omitted. Recording requirements may be a protection or benefit to the applicant. However, to the extent this type of document has not been required previously, it should not impose a new requirement on providers.

o For the reasons discussed in the fees and rates section above, all *requirements for a security deposit should be eliminated at the application stage.*

o *Requirements for a performance bond should be eliminated.* The requirement for a performance bond has not been a common practice in federal wireline or wireless siting, and adding this new requirement at the application stage is both unnecessary and contrary to the policy objective of removing obstacles to accelerated broadband investment and availability. This is especially true when a national wireless provider is the applicant, and there has been no showing that a performance bond is necessary for these providers or any others at the application stage.

o *Certain information requested is too broad.* The requested fields of "Name of Officers, Members, or Owners of Concern, Partnership, etc.," "Federal EIN / State Tax ID," and "D&B Rating," lie outside of normal business purposes. The requested "FCC License" information field would not apply to certain applicants, namely, neutral-host wireless providers. The "Person Authorized to Sign Contracts" information is too detailed; there is no reason to provide detailed contact information for someone who will not be handling the day-to-day issues at the site. Moreover, most companies have multiple potential signing parties, but this form only allows for one. Finally, more feedback on what nos. 1 and 7 are meant to reference on the "Potential Document Check List" would be helpful to applicants.

o *GSA should clarify the title of the proposed common form application.* In its request for public comments, GSA referred to the proposed application as the "Wireless Telecommunications Industry Application"; however, the application form is titled "Wireless Telecommunications Company Application." For clarity and consistency, GSA should clarify the title of the common form application.

o *Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way.* Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right-of-way or otherwise. Common form applications are a convenient and logical mechanism for triggering,

tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new wireless infrastructure requests, and for amendments to existing wireless infrastructure.

Unpredictable processes across agencies

The Working Group urges that broadband infrastructure siting processes should be harmonized across agencies to the extent possible. Also, there should be consistency in how files are processed by the various offices within each agency. Each agency should create a uniform process within each of its regional, state, and field offices.

To ease the burden of the applicant communicating with multiple agencies involved with a site with their varying processes, the Working Group recommends a standardized approach to mapping out what agencies will be involved with a project early on in the application process. There should be a process to ensure that relevant information is shared with the federal agencies involved. Such a system can be executed through the GSA Common Form Application or a similar common application if there is a field on the application to check a box for potentially implicated agencies. GSA should mandate standard template contract(s) that apply across all federal agencies. These contracts should be executable in 30-60 days.

Additionally, the Working Group suggests that agencies measure the number of contracts they sign for new sites and new carriers on existing sites. Tracking executed contracts will help measure whether broadband deployment is in fact increasing on federal lands and property. There should be incentives for agencies approving applications. One such incentive could be that agencies receive partial fee retention through, for example retaining initial rents.

All federal agencies with land management authority should update and harmonize their rights-of-way rules. For example, Department of Interior agencies should update its rights-of-way rules to align to the Bureau of Indian Affairs updated rights-of-way rules with respect to application timelines, effective in 2016. Each agency should conduct a thorough evaluation of their siting rules and processes and streamline them to reduce burdens and encourage investment in broadband deployment. Certain federal land management agencies follow regulations that require infrastructure providers to hold FCC licenses or utilize agreements with the same requirement. These provisions are holdovers from when licensed carriers constructed their own infrastructure.

Policy changes such as allowing applicants to opt in to the rates, terms, and conditions of other providers located at the federal property would encourage investment. Once a federal property is opened for any telecommunications provider, then the property should be open to any and all other providers, without delay, on a non-discriminatory basis to the extent feasible by engineering standards. For example, if one provider's equipment is located on a water tank, then a subsequent provider should be permitted to collocate, as engineering permits, on that same water tank in a substantially similar, but not necessarily identical fashion, opting into the rates, terms and conditions of the initial provider's lease or easement or other legal arrangement. This procedure is consistent with, and may be required by, the anti-discrimination requirement in Section 704(c) of the Telecommunications Act.

Additionally, access to federal lands sites for wireless infrastructure development should be available to tower owners, operators, managers, and other authorized personnel, where applicable. Obvious exceptions for security reasons aside, infrastructure providers need to be able to access the sites quickly, especially in the case of emergencies. Federal agencies should be directed to recognize tower operator sublease and management interests. Some agencies do not consider that tower operators lease or manage a significant number of towers that are still owned by the carriers.

4. Cumbersome historic and environmental review processes

The Working Group recommends that environmental assessments be harmonized across agencies to reduce confusion and redundancy. Environmental impact studies should be valid for a reasonable amount of time so they do not have to be redone. Where surveys or other studies are completed as part of the environmental review, those findings should be available to federal agencies and applicants to use during the reasonable time period.

All federal agencies should ease permitting requirements in previously disturbed areas that have previously undergone environmental review. All federal agencies should streamline their National Historic Preservation Act (NHPA) historic preservation review process by finalizing a list of broadband activities exempted from Section 106 consultation. The Working Group recommends that the FCC expand E106 & FCC Tower Construction Notification System program. All federal agencies should also finalize NEPA categorical exclusions that will exempt broadband projects from Environmental Assessments for sites that involve, for example, cell site compounds, aerial cable, and previously disturbed grounds.

The Advisory Council on Historic Preservation (ACHP) should clarify applicability of its new *Program Comment for Communications Projects on Federal Lands and Property*[6] to all federal agencies, revising the introduction, "Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope." To avoid confusion, "may elect" should be struck and ACHP should affirmatively require the use of the Program Comment by all federal agencies. The Working Group recommends the following additional changes to the Program Comment:

1. The Program Comment should be revised to apply to all Federal Land Managing Agencies (LMAs) and Federal Property Managing Agencies (PMAs). As currently drafted, elective utilization of the Program Comment process does not ensure the expedited and efficient siting procedures necessary to better serve the exponentially growing data demands on networks and the underlying infrastructure.
2. Agencies should be required to process and respond to each application within a specified time period—no more than 60 days.
3. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an

[6] ACHP Program Comment.

application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Applicants should have a right to cure their application by making corrections based on written grounds for rejection received.

4. Throughout the application process, Federal LMAs and PMAs should be required to provide application status updates at the request of applicants. Greater transparency during and after the application process has completed will improve the application submission process and will provide documentation for applicants to use with other historic preservation review processes such as the FCC's NEPA review process
5. Applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved. These timeframes are similar timeframes to what the FCC established for municipalities in land use approvals to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years with no action taken by the federal agency, which is contrary to the national policy promoting broadband throughout all federal properties.

Lastly, the Working Group recommends a thorough evaluation of the August 15, 2017 Executive Order 13807 *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*. The Order incorporates "broadband internet" projects in its efforts to "ensure that the Federal environmental review and permitting process for infrastructure projects is coordinated, predictable, and transparent." Agencies should be held accountable to implement the order's directives within a specified time period.[7]

5. Lease and renewal terms that do not incentivize investment

The Working Group recommends that executive agencies utilize easements or leases with 30 or more-year terms with expectancy of renewal for wireline or wireless siting requests. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit telecommunications facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireline or wireless installations, but that easements are an acceptable legal transaction for the placement of wireline and wireless facilities on federal property. Agencies should also be notified that to minimize the cost— on both the agency and the provider—of future siting applications, and given the extensive capital investment of long-lived assets required for the

[7] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects* (Dep't of Interior Aug. 31, 2017) (DOI began its Executive Order implementation), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

installation of wireline and wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms at least 30 years long and with renewal expectancy.

Ideally, lease terms should extend to the useful life of the assets. The Working Group urges the standardization of lease terms within each type of technology. To avoid holdover leases, agencies should begin the lease renewal process five years in advance of expiration of the lease. Site agreements often expire without a clear path to renewal. Agency rights to terminate leases should be limited to reasons of national security.

6. *Unclear points of contact for local, state, and federal leads for agencies*

The Working Group recommends that GSA, or other designated agency, should require each agency to provide a contact person for handling applications related to each property. Under GSA's Common Form Application Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application . . ." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process. This process should also apply to wireline broadband installations.

Each federal agency should designate a state contact that covers each state to ensure consistency across field offices, forests, and national parks. Additionally, each federal agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information. One government entity, such as NTIA, should consistently compile this information on one online portal.[8]

The Working Group encourages each federal agency to implement an escalation or appeal process when broadband facility requests are delayed or denied. Furthermore, each agency should have an ombudsman to resolve permitting problems. Formalizing this process will ensure more consistent treatment of applications.

[8] *See* National Telecommunications Information Administration (NTIA), Broadband Interagency Working Group, Broadband Opportunity Council Agencies' Progress Report (Dep't of Commerce Jan. 2017) (NTIA's BroadbandUSA website will house a one-stop portal), available at https://www.ntia.doc.gov/files/ntia/publications/broadband_opportunity_council_agencies_progress_report_jan2017.pdf.

7. Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history

As discussed above, a single online tracking mechanisms should be utilized. GSA, or other designated federal agency, should require each executive agency to create a single online application tracking mechanism so that the agenc(ies) and applicants can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible, along with contact information, for a specific application.

All agencies should provide the applicant with information regarding the standard processing time for permitting at the agency (within the established shot clock) so that providers can schedule construction projects in a timely manner.

The Working Group also urges the FCC or Congress to set executive-level quantifiable goals for broadband deployments such as collecting aggregate, industry-level commitment counts to deploy broadband sites on federal lands, and agencies should publish performance against the goals. Each agency should have an identified direct-reporting lead responsible for implementation by achieving actual deployments. Federal agencies should focus on deployment results, beyond intermediary process changes. Each agency should also create deployment transparency mechanism such as a monthly web post of the number of contracts signed, new deployments, and new carriers deployed on existing sites. Every quarter, federal agencies should transparently report the number of permitting applications they have processed.

All federal Agencies should provide a regular report to identify coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as “telecom areas” would also be helpful. Agencies can call for public input in identifying these areas. Such reporting will enable agencies to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost and afford a platform to discuss solutions to these challenge

8. Lack of re-evaluation of processes and fees as technologies evolve

The Working Group recommends that application forms be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way. Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may

involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA Common Form Application for new broadband infrastructure requests, and for amendments to existing broadband infrastructure.

The Working Group also urges federal agencies to incorporate small cells, distributed antenna systems (DAS), and indoor coverage into their streamlining processes. There is often a lag between the introduction or increased use of a technology and when federal agencies adopt procedures to process the siting requests. Federal agencies should create a system for how to evaluate new technologies and determine how they should be reviewed for permitting.

9. DoD siting process costly and time-consuming

The Working Group found that siting broadband facilities on Department of Defense (DoD) property presents unique challenges. Nevertheless, DoD agencies should streamline deployment as indicated in the above recommendations but in keeping with national security interests.

The DoD should reexamine rules and policies regarding the permitting and deployment of broadband within bases, including separate authorizations required for services offered over the same facilities. In some cases, cable operators have been prohibited from deploying Wi-Fi facilities for use by Americans living on military bases. The Department of the Navy (DoN) is a good example of a DoD agency that completed a thorough example of its permitting processes and executed a path towards streamlining broadband deployment on its property. Industry successfully collaborated with the DoN for two years on the development and release of its memorandum titled "Streamlined Process for Commercial Broadband Deployment," (Navy Memo) which was signed by the Deputy Under Secretary of the Navy (DUSN) for Management on June 30, 2016.[9] The new guidelines "set a goal for DON installation to meet or exceed national averages for broadband coverage and capacity," according to the official memorandum. According to the Wireless Infrastructure Association, which coordinated industry participation, "the new wireless facility siting procedures cut down a project coordination and siting deployment process that could take up to five or more years to complete to less than one year."[10]

The DoN is now evaluating an update to its memo to incorporate small cells, DAS, and indoor deployments into its streamlining processes. Other DoD agencies should evaluate the effectiveness of the Navy Memo process and implementation as they develop their own broadband infrastructure siting review process.

The Working Group urges DoD agencies to employ shorter and parallel process steps, particularly making JSC review concurrent with the RFP process. Agencies should accelerate the JSC pre-work,

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[9] Dep't of the Navy, Deputy Under Secretary of the Navy Memo, *Streamlined Process for Commercial Broadband Deployment* (Jun. 30, 2016), available at http://www.doncio.navy mil/ContentView.aspx?ID=8008.

[10] Wireless Infrastructure Association, *Wireless Industry Applauds U.S. Navy's Push to Streamline Wireless Siting Process on Federal Bases* (Jul. 8, 2016), available at https://wia.org/wireless-industry-applauds-u-s-navys-push-streamline-wireless-siting-process-federal-bases/.

application-to-bid mechanism to less than 30 days. Agencies should also streamline the RFP process by moving it online, reducing processing to 30 days, and allowing multiple carriers "to win" per each RFP.

Military agencies should also streamline their RF spectrum clearance processes by eliminating duplicate spectrum interference reviews where one has already been completed for a similar instillation. RF clearance should be valid for an extended period of time. Additionally, agencies should incorporate all possible spectrum bands for operation into the initial RF study so that providers do not have to repeatedly conduct studies for new deployments or new carriers being added to the neutral host.

10. Siting barriers caused by federal funding clauses

The Working Group found that some states impose restrictions on broadband infrastructure deployment in local parks developed with federal funds. For example, Virginia has a restriction that

> property acquired or developed with LWCF [Land & Water Conservation Fund Act of 1965] assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired and/or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act.[11]

Site reviewers in Virginia are interpreting this law as prohibiting wireless infrastructure deployment—labeling such deployment as a prohibited commercial endeavor. It is not likely that the provision of broadband services is the type of activity the Land and Water Conservation Fund Act of 1965 was trying to protect against. Therefore, the Working Group recommends that land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services.

Additionally, the Working Group recommends an evaluation of current broadband deployment loan provisions that may be creating barriers to infrastructure deployment. For instance, Rural Utilities Service (RUS) loans are only awarded to areas that meet the "rurality" condition. These are areas with populations of less than 5.000 inhabitants (city, village, etc.). Some areas, such as Belle Fourche, SD would not qualify for an RUS loan, but would be considered "rural" by most every other definition.

[11] State of Virginia, Conversion of Use General Information, available at http://www.dcr.virginia.gov/recreational-planning/document/lwcf-conversion.pdf.

BROADBAND DEPLOYMENT ADVISORY COMMITTEE: STREAMLINING FEDERAL SITING WORKING GROUP

REPORT, NOV. 9, 2017

Contents

SUMMARY OF CHALLENGES AND SOLUTIONS

1. *Challenge*: Varying and unpredictable fees and rates.
   Solution: Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes.

2. *Challenge*: Lengthy application review times.
   Solution: Require all federal landholding or managing agencies to prioritize broadband permitting. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.

3. *Challenge*: Unharmonized application forms and unpredictable processes across agencies.
   Solution: Require all federal landholding or managing agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.

4. *Challenge*: Cumbersome historic and environmental review processes including environmental studies and Geographic Information System studies.
   Solution: Harmonize environmental assessments across federal landholding or managing agencies, further streamline National Environmental Protection Act and National Historic Preservation Act exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.

5. *Challenge*: Lease and renewal terms that do not incentivize investment.
   Solution: All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment.

6. *Challenge*: Unclear points of contact for local, state, and federal leads for agencies.
   Solution: Every project should have a single, clear point of contact for application review and follow-up.

7. *Challenge*: Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history.
   Solution: There should be a single, easily accessible online-tracking mechanism at each federal agency for the permitting process. All agencies should regularly report on permit status, the number of permitting applications they have processed, and on coverage gaps.

8. *Challenge*: Lack of re-evaluation of processes and fees as technologies evolve.

Solution: The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.

9. *Challenge*: Department of Defense Siting Process is costly and time-consuming.
   Solution: Department of Defense (DoD) agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their military base broadband deployment permitting practices. DoD agencies should streamline their spectrum clearance processes.

10. *Challenge*: Siting barriers caused by federal funding clauses.
    Solution: All federal land grant provisions directly or indirectly precluding broadband deployment should be eliminated.

INTRODUCTION

The Federal Communications Commission (FCC or Commission) Broadband Deployment Advisory Committee, Streamlining Federal Siting Working Group (Working Group) applauds the Commission's interests in removing regulatory barriers to broadband deployment on federal lands and property, which amounts to nearly 30 percent of the U.S. landmass. As Chairman Pai correctly noted, "[broadband is] becoming the 21st-century gateway to jobs, health care, education, information, and economic development everywhere, from the smallest town to the largest city."[1] Developing recommendations to improve the process of siting on federal lands and federally managed properties, as this Working Group has been tasked,[2] will incentivize investment in the deployment of next-generation broadband that will enhance public safety and enable smart solutions in communities across the country.

The Working Group recommends that the FCC evaluate the solutions herein presented to determine which government entity(ies) should effectuate and implement the proposed action. The Working Group encourages the FCC to continue in its advisory capacity to the Broadband Interagency Working Group (formerly the Broadband Opportunity Council) to provide broadband infrastructure policy expertise and ensure that the recommendations herein contained are implemented effectively.

Through its deliberations, the Working Group found that the fundamental concerns regarding the streamlining of federal siting are 1.) predictability and complexity of the application process and accompanying requirements and 2.) the application review time.

[1] *Chairman Pai Forms Broadband Deployment Advisory Committee*, FCC News Release (Jan. 31, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-343242A1.pdf.

[2] By the direction of FCC staff, the Streamlining Federal Siting Working Group was instructed not to include Tribal lands in the Working Group's deliberations and recommendations.

RECOMMENDED SOLUTIONS TO ADDRESS FEDERAL SITING CHALLENGES

1. Varying and unpredictable fees and rates

The Working Group recommends that all administrative fees associated with federal siting applications should be set at a national level. Additionally, all federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to providers to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.

Security deposit requirements also vary and are unpredictable. Working Group members agree that requirements for a security deposit are misplaced prior to the lease or easement negotiation stage. While an application fee is reasonably required with the proposed form, it would be highly unusual and burdensome to require a security deposit prior to negotiation and execution of a lease or easement. As a practice, security deposits are generally collected from credit poor, unknown tenants, in contrast to the broadband providers who have decades of experience across the country with federal civilian and military sites. Therefore, there should be no need for security deposits. Artificially increasing the cost of deploying broadband infrastructure is contrary to the national policy of accelerating broadband availability. However, should a deposit be required, deposits should be refunded if an agreement is not executed due to no fault of applicant.

Additionally, the Working Group recommends that federal agencies utilize predictable measurers for rent increases such as annual Consumer Price Index or fixed percent increases. Fair market appraisal updates should be conducted every ten years instead of every five years. Also, an agency should not require a provider to share with the agency the revenue it obtains from subsequent collocators. Where a military installation is the sole or primary beneficiary of the infrastructure, agencies should allow for rent elimination or in-kind rent reduction.

Because many federal agencies express that staff constraints are a cause of delay in reviewing siting applications, the Working Group recommends that all federal agencies should receive more of the revenue they generate from broadband deployment. Agencies can use the revenue retained to hire more staff to focus on their communications site programs to improve response times and enable other efficiencies. Similarly, there should be reasonable revenue share for broadband infrastructure siting between agency headquarters and field offices. Field offices gaining revenue from the applications they process may provide incentives to streamline the application process and review more applications.

The Working Group discovered that not all equipment deployed on federal lands and property receive the same review scrutiny as broadband infrastructure. Agencies should ensure that broadband service is treated similarly to utilities deployed on federal lands, which typically receive faster approvals at lower costs.

2. Lengthy application review times

In keeping with the national goal of ensuring that "all people of the United State have access to broadband capability"[3] and whereas there is national agreement to eliminate barriers to broadband infrastructure deployment,[4] Congress should mandate that all federal agencies prioritize broadband permitting and implement funding and application review changes that reflect the prioritization of broadband deployment.

Infrastructure providers report delays in broadband permitting application processing across federal agencies. For example, InterConnect Towers (ICT), a wireless infrastructure provider that has been providing wireless coverage on federal land since 1998, provided data to the Working Group that ICT alone has 30 serialized Bureau of Land Management applications across California, Nevada, and Arizona that have been pending since 2013.[5]

The Department of Interior (DOI) is working to streamline its infrastructure project review processes as evidenced by the recent release of its Order "Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," which creates a target for each DOI bureau to "complete each Final [Environmental Impact Statements] for which it is the lead agency within 1 year from the issuance of a Notice of Intent (NOI) to prepare and EIS."[6] However, Working Group members agree that all federal landholding and managing agencies can do more to reduce review times in all of their broadband permitting steps.

Consequently, the Working Group urges the FCC to emphasize that timely responses to broadband siting applications are mandatory. Consistent with GSA Bulletin FMR 2007-B2, agencies should be required to process and respond to each application within a specified time period – no more than 60 days. The Working Group recommends that if requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The federal agency should notify the applicant within ten days of receipt of the application if the agency believes the application is not materially complete and it needs to be amended or modified. The agency should identify the specific form for incompleteness. The applicant should submit the revised application within 60 days of being notified of the error. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Sites sometimes go into holdover status after completion of a lease term but before renewal. Therefore, the Working

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[3] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009).
[4] *Broadband: Deploying America's 21st Century Infrastructure: Hearing Before the Subcomm. on the Communications and Technology of the H. Comm. on Energy and Commerce Committee*, 115th Cong. (Mar. 17, 2017) (Majority Subcomm Staff Memorandum to Members), available at http://docs.house.gov/meetings/IF/IF16/20170321/105740/HHRG-115-IF16-20170321-SD002-U1.pdf.
[5] *See*, Comments of Interconnect Towers LLC, DOI Docket No. 2017-0003-0191, at 2, 13 (filed October 10 2017) (noting "ICT alone, for example, has 30 serialized applications across California, Nevada, and Arizona that have been pending since 2013 (See Attachment A)").
[6] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, Section 4.a.(2), (Dep't of Interior Aug. 31, 2017), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

Group also recommends that application review priority be given to site permit agreements that are expired or soon to expire.

Applications should be "deemed approved" upon passage of time. Expanding broadband is a very important national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency-specific statutory authority to provide a deemed approved remedy). These timeframes are the same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting wireline and wireless broadband throughout all federal properties.

Additionally, efficiencies would be gained if federal agencies are able to use the applicant's diligence to shorten approval times and reduce costs. For instance, rather than perform all portions of the application review itself, a federal agency could use recent site inspection photos to supplement its own inspection process. The reviewing agency could also use National Environmental Policy Act (NEPA) reviews and other regulatory studies completed recently by the applicant. There should be a formalized process for agencies to utilize past NEPA review materials regardless of which agency conducted the review.

Similarly, the Working Group recommends the development of formalized guidance on scenarios in which a project is likely to involve multiple agencies. The lead agency reviewing the application should highlight and coordinate with the other agencies that should be involved.

To further expedite the application process, agencies should automatically accept document revision requests to correct obvious clerical errors within an application. A common clerical error requiring application correction is an incorrect/incomplete entity name in the preamble, body, and/or signature block of an application. Additionally, document preparers should have flexibility in cases where applicants are reasonably unable to comply with specific provisions. The most common example involves the insurance provisions. Often, the federal insurance requirements are not commercially available, but the agencies are unable to revise the requirements for them in the application. Specifically, the government unrealistically requires "per occurrence" insurance coverage amounts in lieu of adequate coverage in the aggregate.

The Working Group also recommends that federal agencies presume broadband siting applications to be consistent with each agency's mission and property use. Consistent with Section 704 of the Telecommunications Act, applications to place communications facilities should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and complete conflict with an agency's mission. The existence of other providers' wireline and/or wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its property. If the executive agency rejects an application because it is in direct conflict with the agency's mission or use of its property, the executive agency should provide in writing all factual bases proving that the application is in direct and complete conflict with the agency's mission or use of its property. Those factual bases should be provided to the provider in writing, concurrently with the rejection.

Having pre-approved installation types with the ability to make minor pre-approved changes would lessen the burden on the agency for approval and will result in faster installation for the service provider. The Working Group encourages agencies to use Program Comments, Programmatic Environmental Assessments, or other vehicles to identify categories of facilities to apply streamlined approval.[7] Pre-approved installation types could vary based on the type of agency and the nature of the site region or specific location. These pre-approved installation types could be listed on the agencies website or documentation. This would also allow the agency to promote certain types of installations they prefer by making the approval and permitting process for those particular types of installations streamlined.

3. Unharmonized application forms and unpredictable processes across agencies

Unharmonized application forms

The Working Group recommends that there be one required, standardized siting permit application form for agencies to use with elements that apply to specific agencies. Agencies should work with industry to create standard templates to be applied across all agencies and within the different offices within each agency.

In 2015, the General Service Administration released its Wireless Telecommunications Company Application (GSA Common Form Application) to serve as a common application "for use by all land-holding executive agencies, streamlin[ing] the collection of business information that will be used by the Federal Government to negotiate specific antenna installation contracts and to obtain a point of contact for each applicant."[8] Being over two years out from release, agencies and industry should evaluate the effectiveness of the GSA Common Form Application. The Working Group proposes that GSA revise its Common Form Application as follows:

- *GSA should require each agency to provide a contact person for handling applications related to each property.* Under the Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process.

- *A single online tracking mechanism should be utilized.* GSA should require documentation of an online application tracking mechanism for each agency so that the agenc(ies) and applicant can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress

[7] *See* Advisory Council on Historic Preservation (ACHP), Program Comment for Communications Projects on Federal Lands and Property (May 8, 2017), available at http://www.achp.gov/docs/broadband-program-comment.pdf (ACHP Program Comment).

[8] General Service Administration, Wireless Telecommunications Company Application (current revision Sep. 2015), available at https://www.gsa.gov/forms-library/wireless-telecommunications-company-application.

and status. The tracking mechanism will identify the appropriate offices responsible for each broadband siting application, along with point of contact information.

o *RFI certification report requirement should be clarified.* A Radio Frequency Identification (RFI) certification report is listed as a potential document that may be required under the common application Document Check List. This section should be clarified to state that RFI reports are not required outside of military installations. Such reports have not been necessary over decades of industry experience, and there is no need to add an additional report that has not been required previously.

o *The application form should not implicate a JSC review for commercial providers of unlicensed wireless services.* An FCC license is typically not required to operate unlicensed wireless services for operations that meet certain FCC requirements for unlicensed use of spectrum, such as non-interference and power limits. Therefore, unlicensed use that meets this standard should not be subjected to additional spectrum reviews, such as the Joint Spectrum Center (JSC) review. The Defense Information Systems Agency operates JSC as a required process by GSA and the Department of Defense to identify and mitigate electromagnetic interference to base electronics and spectrum-dependent systems before approving a commercial wireless system installation. The actions GSA takes with the common application in proposing a common application form for siting wireless facilities on federal land or buildings should not trigger a JSC review for commercial providers of unlicensed wireless services.

o *"Federal, state and local statutory recording requirements" should be clarified or deleted.* This section should be clarified to either describe exactly what is being required, or it should be omitted. Recording requirements may be a protection or benefit to the applicant. However, to the extent this type of document has not been required previously, it should not impose a new requirement on providers.

o For the reasons discussed in the fees and rates section above, all *requirements for a security deposit should be eliminated at the application stage.*

o *Requirements for a performance bond should be eliminated.* The requirement for a performance bond has not been a common practice in federal wireline or wireless siting, and adding this new requirement at the application stage is both unnecessary and contrary to the policy objective of removing obstacles to accelerated broadband investment and availability. This is especially true when a national wireless provider is the applicant, and there has been no showing that a performance bond is necessary for these providers or any others at the application stage.

o *Certain information requested is too broad.* The requested fields of "Name of Officers, Members, or Owners of Concern, Partnership, etc.," "Federal EIN / State Tax ID," and "D&B Rating," lie outside of normal business purposes. The requested "FCC License" information field would not apply to certain applicants, namely, neutral-host wireless providers. The "Person Authorized to Sign Contracts" information is too detailed; there is no reason to provide detailed contact information for someone who will not be handling the day-to-day issues at the site. Moreover, most companies have multiple potential signing parties, but this form only allows for one. Finally, more feedback on what numbers 1 and 7 are meant to reference on the "Potential Document Check List" would be helpful to applicants.

- *GSA should clarify the title of the proposed common form application.* In its request for public comments, GSA referred to the proposed application as the "Wireless Telecommunications Industry Application"; however, the application form is titled "Wireless Telecommunications Company Application." For clarity and consistency, GSA should clarify the title of the common form application.

- *Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way.* Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right-of-way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new wireless infrastructure requests, and for amendments to existing wireless infrastructure.

Unpredictable processes across agencies

The Working Group urges that broadband infrastructure siting processes should be harmonized across agencies to the extent possible. Also, there should be consistency in how files are processed by the various offices within each agency. Each agency should create a uniform process within each of its regional, state, and field offices.

To ease the burden of the applicant communicating with multiple agencies involved with a site with their varying processes, the Working Group recommends a standardized approach to mapping out which agencies will be involved with a project early on in the application process. There should be a process to ensure that relevant information is shared with the federal agencies involved. Such a system can be executed through the GSA Common Form Application or a similar common application if there is a field on the application to check a box for potentially involved agencies. GSA should mandate standard template contract(s) that apply across all federal agencies. These contracts should be executable in 30-60 days.

Additionally, the Working Group suggests that agencies measure the number of contracts they sign for new sites and new carriers on existing sites. Tracking executed contracts will help measure whether broadband deployment is in fact increasing on federal lands and property. There should be incentives for agencies approving applications. One such incentive could be that agencies receive partial fee retention through, for example retaining initial rents.

All federal agencies with land management authority should update and harmonize their rights-of-way rules. For example, Department of Interior agencies should update its rights-of-way rules to align to the Bureau of Indian Affairs updated rights-of-way rules with respect to application timelines, effective in 2016. Each agency should conduct a thorough evaluation of their siting rules and processes and streamline them to reduce burdens and encourage investment in broadband deployment. Certain federal land management agencies follow regulations that require infrastructure providers to hold FCC licenses or utilize agreements with the same requirement. These provisions are holdovers from when licensed carriers constructed their own infrastructure.

Policy changes such as allowing applicants to opt in to the rates, terms, and conditions of other providers located at the federal property would encourage investment. Once a federal property is opened for any telecommunications provider, then the property should be open to any and all other providers, without delay, on a non-discriminatory basis to the extent feasible by engineering standards. For example, if one provider's equipment is located on a water tank, then a subsequent provider should be permitted to collocate, as engineering permits, on that same water tank in a substantially similar, but not necessarily identical fashion, opting into the rates, terms and conditions of the initial provider's lease or easement or other legal arrangement. This procedure is consistent with, and may be required by, the anti-discrimination requirement in Section 704(c) of the Telecommunications Act.

Additionally, access to federal lands sites for wireless infrastructure development should be available to tower owners, operators, managers, and other authorized personnel, where applicable. Obvious exceptions for security reasons aside, infrastructure providers need to be able to access the sites quickly, especially in the case of emergencies. Federal agencies should be directed to recognize tower operator sublease and management interests. Some agencies do not consider that tower operators lease or manage a significant number of towers that are still owned by the carriers.

4. Cumbersome historic and environmental review processes

The Working Group recommends that environmental assessments be harmonized across agencies to reduce confusion and redundancy. Environmental impact studies should be valid for a reasonable amount of time so they do not have to be redone. Where surveys or other studies are completed as part of the environmental review, those findings should be available to federal agencies and applicants to use during the reasonable time period.

All federal agencies should ease permitting requirements in previously disturbed areas that have previously undergone environmental review. All federal agencies should streamline their National Historic Preservation Act (NHPA) historic preservation review process by finalizing a list of broadband activities exempted from Section 106 consultation. The Working Group recommends that the FCC expand E106 & FCC Tower Construction Notification System program. All federal agencies should also finalize NEPA categorical exclusions that will exempt broadband projects from Environmental Assessments for sites that involve, for example, cell site compounds, aerial cable, and previously disturbed grounds.

The Advisory Council on Historic Preservation (ACHP) should clarify applicability of its new *Program Comment for Communications Projects on Federal Lands and Property*[9] to all federal agencies, revising the introduction, "Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope." To avoid confusion, "may elect" should be struck and ACHP should affirmatively require the use of the Program Comment by all federal agencies. The Working Group recommends the following additional changes to the Program Comment:

[9] ACHP Program Comment.

1. The Program Comment should be revised to apply to all Federal Land Managing Agencies (LMAs) and Federal Property Managing Agencies (PMAs). As currently drafted, elective utilization of the Program Comment process does not ensure the expedited and efficient siting procedures necessary to better serve the exponentially growing data demands on networks and the underlying infrastructure.
2. Agencies should be required to process and respond to each application within a specified time period—no more than 60 days.
3. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Applicants should have a right to cure their application by making corrections based on written grounds for rejection received.
4. Throughout the application process, Federal LMAs and PMAs should be required to provide application status updates at the request of applicants. Greater transparency during and after the application process has completed will improve the application submission process and will provide documentation for applicants to use with other historic preservation review processes such as the FCC's NEPA review process
5. Applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved. These timeframes are similar timeframes to what the FCC established for municipalities in land use approvals to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years with no action taken by the federal agency, which is contrary to the national policy promoting broadband throughout all federal properties.

Lastly, the Working Group recommends a thorough evaluation of the August 15, 2017 Executive Order 13807 *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*. The Order incorporates "broadband internet" projects in its efforts to "ensure that the Federal environmental review and permitting process for infrastructure projects is coordinated, predictable, and transparent." Agencies should be held accountable to implement the order's directives within a specified time period.[10]

[10] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects* (Dep't of Interior Aug. 31, 2017) (DOI began its Executive Order implementation), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

5. Lease and renewal terms that do not incentivize investment

The Working Group recommends that executive agencies utilize easements or leases with 30 or more-year terms with expectancy of renewal for wireline or wireless siting requests. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit telecommunications facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireline or wireless installations, but that easements are an acceptable legal transaction for the placement of wireline and wireless facilities on federal property. Agencies should also be notified that to minimize the cost— on both the agency and the provider—of future siting applications, and given the extensive capital investment of long-lived assets required for the installation of wireline and wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms at least 30 years long and with renewal expectancy.

Ideally, lease terms should extend to the useful life of the assets. The Working Group urges the standardization of lease terms within each type of technology. To avoid holdover leases, agencies should begin the lease renewal process five years in advance of expiration of the lease. Site agreements often expire without a clear path to renewal. Agency rights to terminate leases should be limited to reasons of national security.

6. *Unclear points of contact for local, state, and federal leads for agencies*

The Working Group recommends that GSA, or other designated agency, should require each agency to provide a contact person for handling applications related to each property. Under GSA's Common Form Application Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process. This process should also apply to wireline broadband installations.

Each federal agency should designate a state contact that covers each state to ensure consistency across field offices, forests, and national parks. Additionally, each federal agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information. One government entity, such as NTIA, should consistently compile this information on one online portal.[11]

[11] *See* National Telecommunications Information Administration (NTIA), Broadband Interagency Working Group, Broadband Opportunity Council Agencies' Progress Report (Dep't of Commerce Jan. 2017) (NTIA's BroadbandUSA website will house a one-stop portal), available at https://www.ntia.doc.gov/files/ntia/publications/broadband_opportunity_council_agencies_progress_report_jan2017.pdf.

The Working Group encourages each federal agency to implement an escalation or appeal process when broadband facility requests are delayed or denied. Furthermore, each agency should have an ombudsman to resolve permitting problems. Formalizing this process will ensure more consistent treatment of applications.

7. Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history

As discussed above, agencies should employ a a single online permitting application tracking mechanism. GSA, or other designated federal agency, should require each executive agency to create a single online application tracking mechanism so that the agenc(ies) and applicants can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible, along with contact information, for a specific application. The Working Group encourages the FCC and other federal agencies to review the Administration's Federal Infrastructure Permitting Dashboard,[12] which includes infrastructure projects identified as Covered Projects under Title 41 of the Fixing America's Surface Transportation (FAST) Act, Department of Transportation projects, and other tracked projects. This dashboard is not currently used to track broadband infrastructure projects across federal agencies; however, agencies may find it efficient to track their projects in this manner.

All agencies should provide the applicant with information regarding the standard processing time for permitting at the agency (within the established shot clock) so that providers can schedule construction projects in a timely manner.

The Working Group also urges the FCC or Congress to set executive-level quantifiable goals for broadband deployments such as collecting aggregate, industry-level commitment counts to deploy broadband sites on federal lands, and agencies should publish performance against the goals. Each agency should have an identified direct-reporting lead responsible for implementation by achieving actual deployments. Federal agencies should focus on deployment results, beyond intermediary process changes. Each agency should also create deployment transparency mechanism such as a monthly web post of the number of contracts signed, new deployments, and new carriers deployed on existing sites. Every quarter, federal agencies should transparently report the number of permitting applications they have processed.

All federal Agencies should provide a regular report to identify coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as "telecom areas" would also be helpful. Agencies can call for public input in identifying these areas. Such reporting will enable agencies to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost and afford a platform to discuss solutions to these challenge

[12] *See* Federal Infrastructure Permitting Dashboard, available at https://www.permits.performance.gov/projects.

8. Lack of re-evaluation of processes and fees as technologies evolve

The Working Group recommends that application forms be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way. Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA Common Form Application for new broadband infrastructure requests, and for amendments to existing broadband infrastructure.

The Working Group also urges federal agencies to incorporate small cells, distributed antenna systems (DAS), and indoor coverage into their streamlining processes. There is often a lag between the introduction or increased use of a technology and when federal agencies adopt procedures to process the siting requests. Federal agencies should create a system for how to evaluate new technologies and determine how they should be reviewed for permitting.

9. DoD siting process costly and time-consuming

The Working Group found that siting broadband facilities on Department of Defense (DoD) property presents unique challenges. Nevertheless, DoD agencies should streamline deployment as indicated in the above recommendations but in keeping with national security interests.

The DoD should reexamine rules and policies regarding the permitting and deployment of broadband within bases, including separate authorizations required for services offered over the same facilities. In some cases, cable operators have been prohibited from deploying Wi-Fi facilities for use by Americans living on military bases.

The Department of the Navy (DoN) is a good example of a DoD agency that completed a thorough example of its permitting processes and executed a path towards streamlining broadband deployment on its property. Industry successfully collaborated with the DoN for two years on the development and release of its memorandum titled "Streamlined Process for Commercial Broadband Deployment," (Navy Memo) which was signed by the Deputy Under Secretary of the Navy (DUSN) for Management on June 30, 2016.[13] The new guidelines "set a goal for DON installation to meet or exceed national averages for broadband coverage and capacity," according to the official memorandum. According to the Wireless Infrastructure Association, which coordinated industry participation, "the new wireless facility siting

[13] Dep't of the Navy, Deputy Under Secretary of the Navy Memo, *Streamlined Process for Commercial Broadband Deployment* (Jun. 30, 2016), available at http://www.doncio.navy mil/ContentView.aspx?ID=8008.

procedures cut down a project coordination and siting deployment process that could take up to five or more years to complete to less than one year."[14]

The DoN is now evaluating an update to its memo to incorporate small cells, DAS, and indoor deployments into its streamlining processes. Other DoD agencies should evaluate the effectiveness of the Navy Memo process and implementation as they develop their own broadband infrastructure siting review process.

The Working Group urges DoD agencies to employ shorter and parallel process steps, particularly making JSC review concurrent with the RFP process. Agencies should accelerate the JSC pre-work, application-to-bid mechanism to less than 30 days. Agencies should also streamline the RFP process by moving it online, reducing processing to 30 days, and allowing multiple carriers "to win" per each RFP.

Military agencies should also streamline their RF spectrum clearance processes by eliminating duplicate spectrum interference reviews where one has already been completed for a similar instillation. RF clearance should be valid for an extended period of time. Additionally, agencies should incorporate all possible spectrum bands for operation into the initial RF study so that providers do not have to repeatedly conduct studies for new deployments or new carriers being added to the neutral host.

10. Siting barriers caused by federal funding clauses

The Working Group found that some states impose restrictions on broadband infrastructure deployment in local parks developed with federal funds. For example, Virginia has a restriction that:

> property acquired or developed with LWCF [Land & Water Conservation Fund Act of 1965] assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired and/or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act.[15]

Site reviewers in Virginia are interpreting this law as prohibiting wireless infrastructure deployment, labeling such deployment as a prohibited commercial endeavor. It is not likely that the provision of broadband services is the type of activity the Land and Water Conservation Fund Act of 1965 was trying to protect against. Therefore, the Working Group recommends that land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services.

[14] Wireless Infrastructure Association, *Wireless Industry Applauds U.S. Navy's Push to Streamline Wireless Siting Process on Federal Bases* (Jul. 8, 2016), available at https://wia.org/wireless-industry-applauds-u-s-navys-push-streamline-wireless-siting-process-federal-bases/.

[15] State of Virginia, Conversion of Use General Information, available at http://www.dcr.virginia.gov/recreational-planning/document/lwcf-conversion.pdf.

Broadband Deployment Advisory Committee

Streamlining Federal Siting Working Group

Federal Agencies Webinar

Jonathan Adelstein (WIA), Chair
Valerie Fast Horse (Coeur d'Alene Tribe), Vice Chair

Broadband Deployment Advisory Committee Working Group: Streamlining Federal Siting

Membership Announced August 3, 2017

Expert Presenters

- October 4, 2017 - Thomas Kidd, Department of the Navy Spectrum Policy Director
- October 18, 2017 – Grace Koh, Special Assistant to the President on Technology, Telecom and Cybersecurity

Working Group Report Presented November 9, 2017

- Working Group Vote Tally: 20 Approve; 3 Abstain
- BDAC Vote Tally: 2 Oppose; 2 Abstain

Members * indicates a member of the Broadband Deployment Advisory Committee

- **Jonathan Adelstein**, President and Chief Executive Officer, Wireless Infrastructure Association, Chair*
- **Valerie Fast Horse**, Information Technology Director, Coeur d'Alene Tribe, Vice Chair*
- **Mark Buell**, Regional Bureau Director, North America, The Internet Society
- **Shirley Bloomfield**, Chief Executive Officer, NTCA – The Rural Broadband Association
- **Carri Bennet**, General Counsel, The Rural Wireless Association
- **Brian Boisvert**, Chief Executive Officer, General Manager, Wilson Communications
- **Skyler Ditchfield**, Chief Executive Officer, GeoLinks
- **Stephanie Holderfield**, Advisor, Office of Public and Indian Housing, Department of Housing and Urban Development
- **Betsy Huber**, President, National Grange*
- **John Jones**, Senior Vice President, Public Policy and Regulatory Affairs, CenturyLink
- **Daniel Jorjani**, Principal Deputy Solicitor and Acting Solicitor, Department of Interior
- **Kellie McGinness Kubena**, Director, Engineering and Environmental Staff, Rural Utilities Service, Department of Agriculture, Rural Development
- **Mark N. Lewellen**, Manager of Spectrum Advocacy, John Deere
- **Ron McCue**, President and Chief Operating Officer, Silver Star Communications
- **Chris Murphy**, Associate General Counsel, Regulatory, ViaSat, Inc.
- **Michael Nedd**, Acting Director, Bureau of Land Management, Department of Interior
- **Steve Papa**, Chairman and Chief Executive Officer, Parallel Wireless
- **Kristina Woolston**, Vice President External Relations, Quintillion*
- **William Rinehart**, Director of Technology and Innovation Policy, American Action Forum
- **John Saw**, Chief Technology Officer, Sprint*
- **Brent Skorup**, Research Fellow, Technology Policy Program, Mercatus Center, George Mason University*
- **Larry Thompson**, Chief Executive Officer, Vantage Point Solutions, National Exchange Carrier Association*

Alternate Members

- **Tim Spisak**, Bureau of Land Management
- **Sade Oshinubi**, Wireless Infrastructure Association
- **Melissa Slawson**, GeoLinks
- **Barbara Sessions**, Silver Star
- **Patricia Soler and Caitlin Thompson**, Department of Housing and Urban Development
- **Michael Romano**, NTCA – The Rural Broadband Association
- **Charles McKee and Keith Buell**, Sprint
- **Carmen O'Neill**, National Exchange Carrier Association
- **Marjorie Spivak**, The Rural Wireless Association
- **Gary Lawkowski**, Department of Interior

FEDERAL AGENCY MEMBERS

Department of the Interior

Department of the Interior, Bureau of Land Management

Department of Housing and Urban Development

Department of Agriculture, Rural Utilities Service

Task and Goals

Develop recommendations to improve the process of siting on federal lands and federally managed properties, such as by:

Recommending standard procedures for facility siting;

Examining and providing recommendations on how to standardize the duration of leases and easements;

Considering whether to recommend a shot clock for the processing of applications for facilities siting on Federal land by Federal agencies;

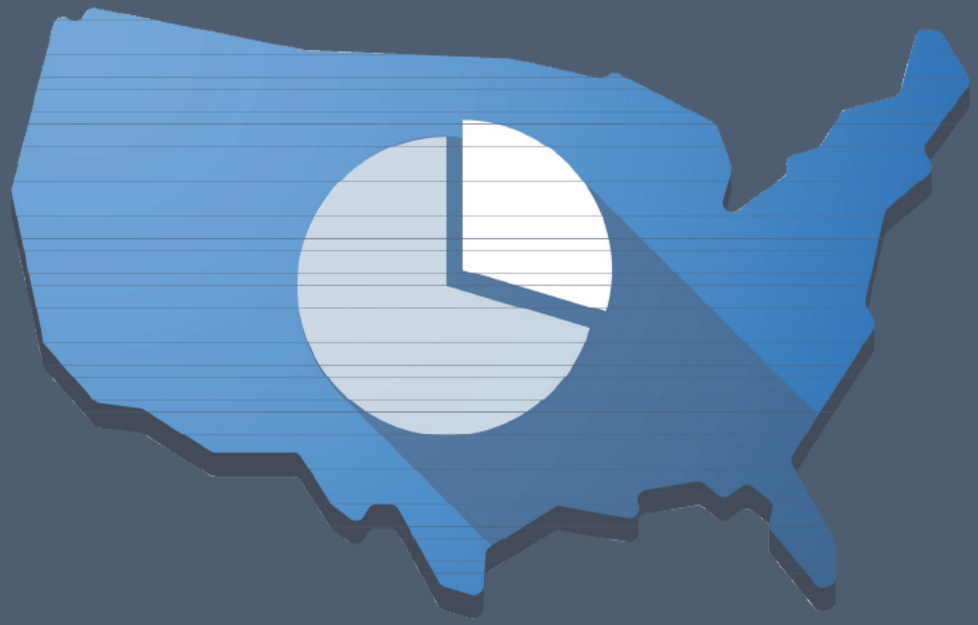
Exploring and reporting on possible methods for Federal agencies to identify and report on coverage gaps and deficiencies; and

Recommending procedures for creating and maintaining a publicly accessible inventory of space that can be used to attach or install broadband infrastructure.

2017 DELIVERABLE: Present recommendations for a vote at the November BDAC meeting, including possible recommendations for further study.

**Per FCC direction, Tribal lands and Tribal siting review issues are not within the scope of BDAC and were therefore not considered by the Streamlining Federal Siting Working Group.

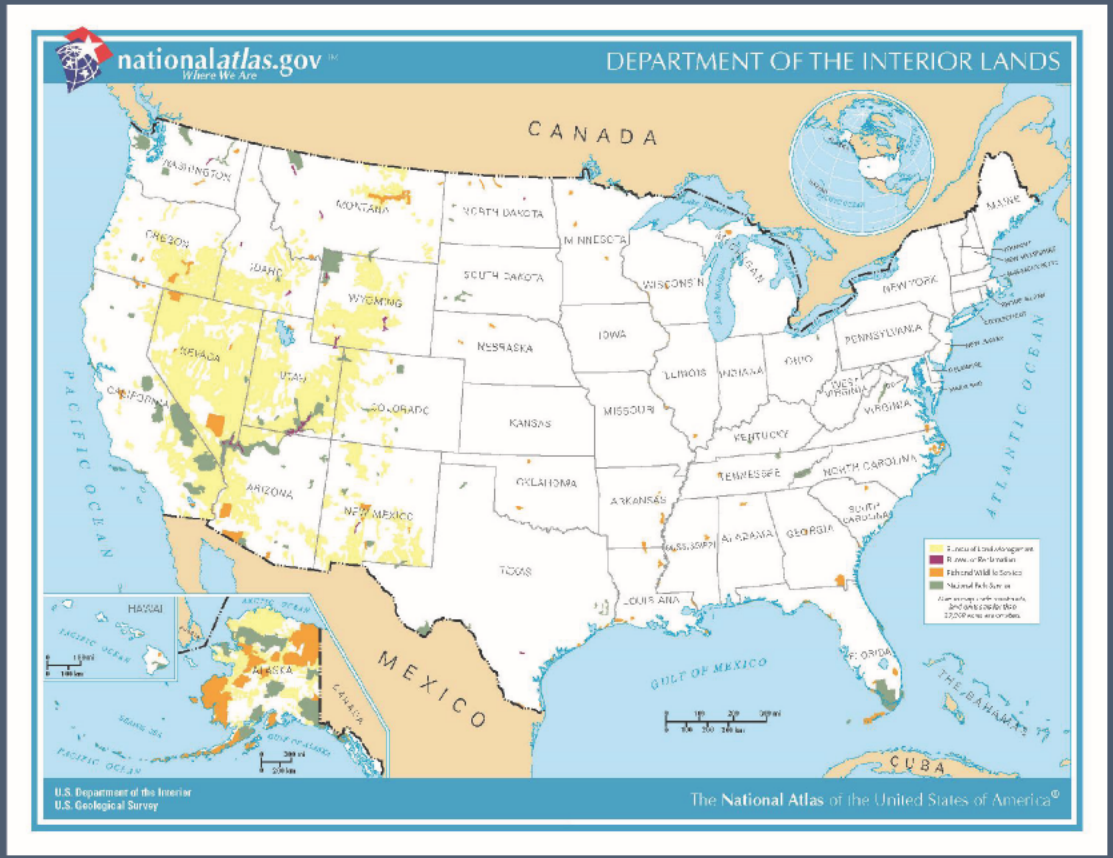
United States Federal Lands



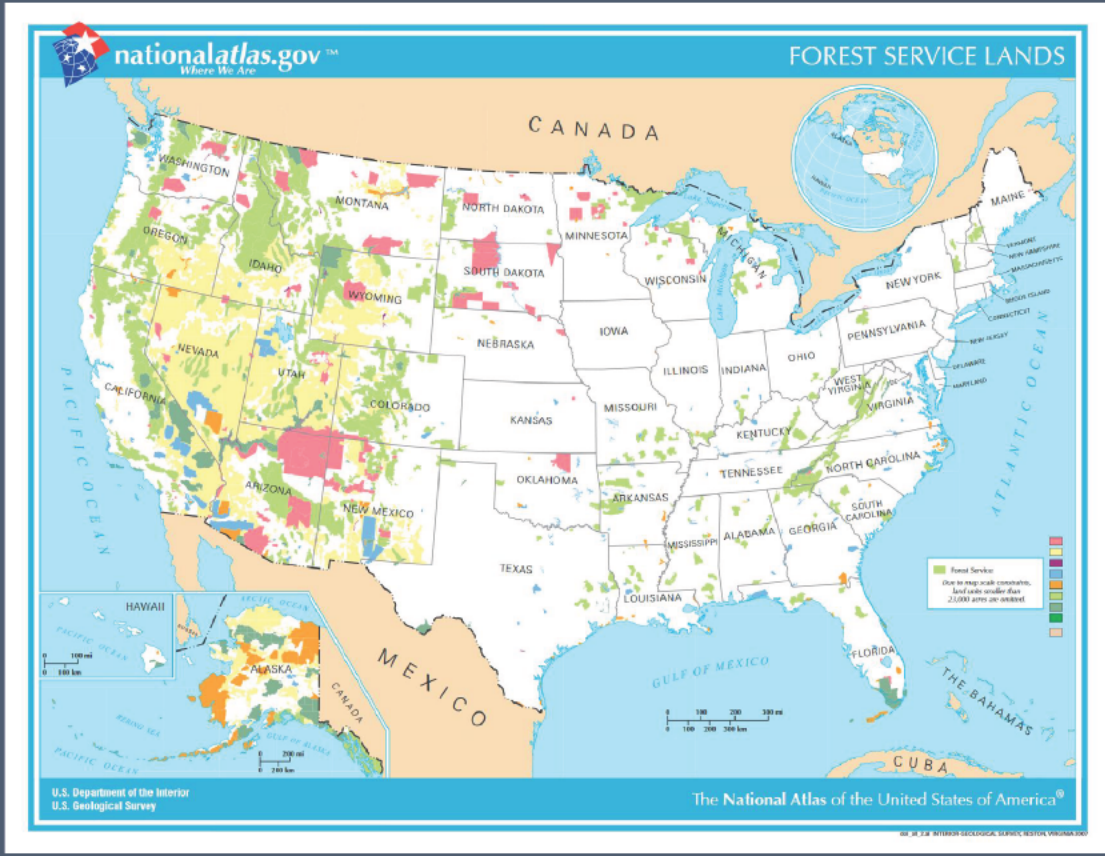
~30%

- The US consists of 2.27 billion acres
- 28% or approximately 636 million acres are owned by the federal government

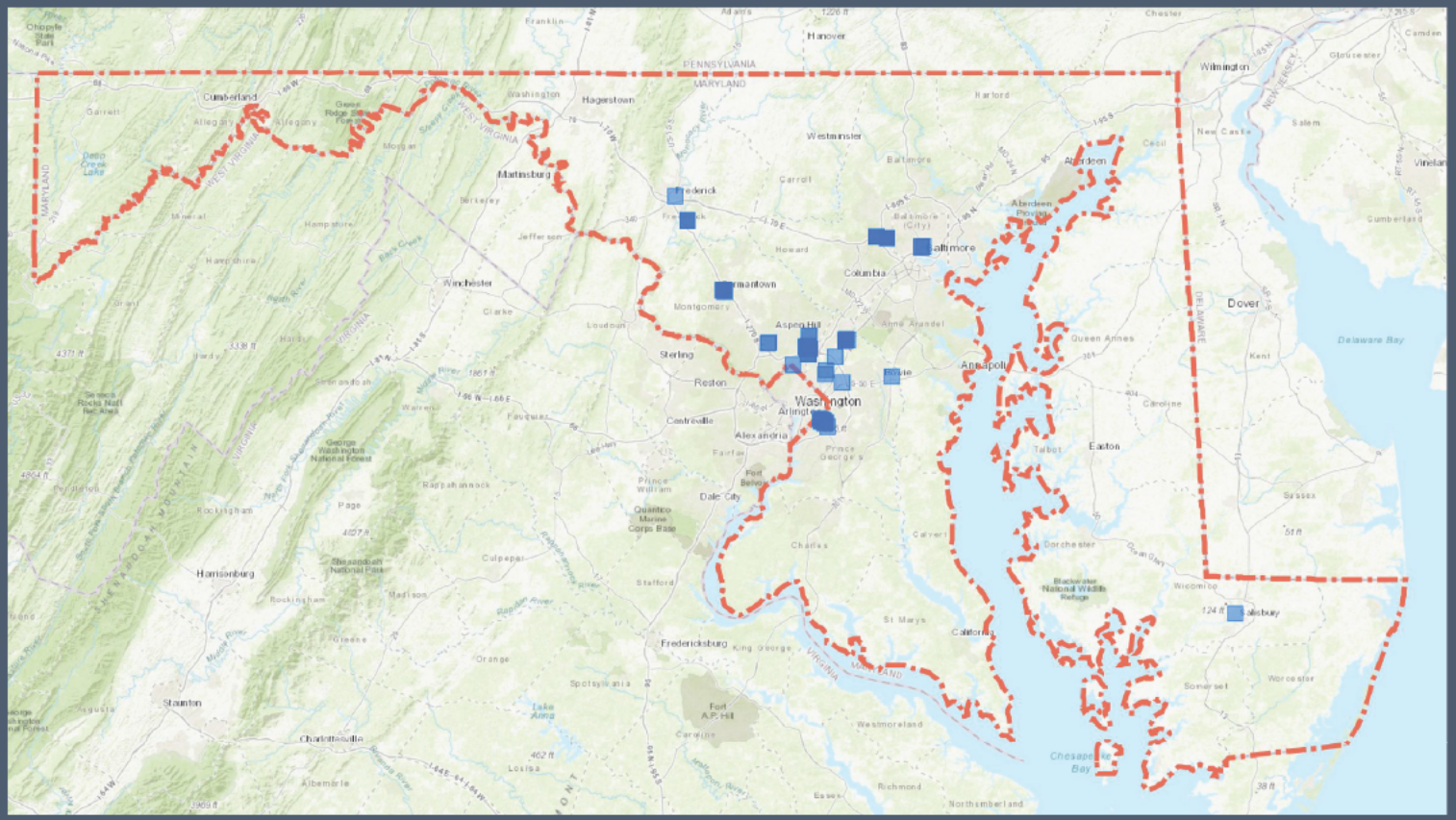
Federal Lands Maps



Federal Lands Maps



GSA Owned Property Map, Maryland Example



Bringing Broadband to Federal Lands and Property

Challenges and Solutions – Summary

Challenge	Solution
Varying and unpredictable fees and rates.	Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes.

Fees Recommendations

- Administrative fees associated with federal siting applications should be set at a national level.
- All federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to deploy broadband facilities on federal lands.
- All federal agencies should receive more of the revenue they generate from broadband deployment, with reasonable revenue share between agency headquarters and field offices for broadband infrastructure siting.
- Eliminate unwarranted requirements for security deposits.
- Utilize predictable measurers for rent increases such as annual Consumer Price Index or fixed percent increases.
- Fair market appraisal updates should be conducted every ten years instead of every five years.

Challenges and Solutions – Summary

Challenge	Solution
Lengthy application review times.	Require all federal landholding or managing agencies to prioritize broadband permitting. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.

Application Review Times Recommendations

- Respond to each application within no more than 60 days (including revised applications).
- Apply the FCC's deemed approved policy for municipalities in land use approvals: 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications).
- Conduct walkouts of site within 30 days of the filing of an application.
- Notify applicants of incomplete applications within ten days of receipt of the application with applicants submitting revised applications within 60 days of the notification.
- Application review priority should be given to site permit agreements that are expired or soon to expire.
- Re-use elements of applications already submitted elsewhere such as inspection photos and regulatory studies like NEPA.
- Use Program Comments, Programmatic Environmental Assessments, or other vehicles to identify categories of facilities to apply streamlined approval.

Challenges and Solutions – Summary

Challenge	Solution
Unharmonized application forms and unpredictable processes across agencies.	Require all federal landholding or managing agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.

Harmonizing Application Forms and Processes Recommendations

- There should be one required, standardized siting permit application form for agencies to use with elements that apply to specific agencies.
- Revisit the GSA Common Form Application to make it applicable to wireline installations and to implement recommended enhancements.
- Develop a standardized approach to mapping out which agencies will be involved with a project early in the application process.
- Update and harmonize agency rights-of-way rules.
- Each agency should conduct a thorough evaluation of their siting rules and processes and streamline them to reduce burdens and encourage broadband investment.
- Access to federal lands sites for wireless infrastructure development should be available to tower owners, operators, managers, and other authorized personnel, where applicable.

Challenges and Solutions – Summary

Challenge	Solution
Cumbersome historic and environmental review processes including environmental studies and GIS studies.	Harmonize environmental assessments across federal landholding and managing agencies, further streamline NEPA and NHPA exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.

Historic and Environmental Review Recommendations

- Harmonize environmental assessments across agencies.
- Environmental impact studies should be valid for a reasonable amount of time and be usable by multiple agencies.
- Adopt NHPA and NEPA exemptions and exclusions for instillations not likely to cause an adverse effect.
- ACHP's *Program Comment for Communications Project on Federal Lands and Property* should be adopted by all federal land/property-holding and managing agencies. ACHP should also adopt recommended updates to its Program Comment to further streamline broadband deployment.
- Agencies should be held accountable to implement the directives in the August 15, 2017 Executive Order 13807 *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects* within a specified time period

Challenges and Solutions – Summary

Challenge	Solution
Lease and renewal terms that do not incentivize investment.	All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment.

Lease and Renewal Terms Recommendations

- Utilize easements or leases with 30 or more-year terms with expectancy of renewal.
- Notify all federal agencies that leases are not required and that easements are an acceptable legal transaction for the placement of broadband facilities on federal property.
- Lease terms should be standardized within each type of technology.
- To avoid holdover leases, agencies should begin the lease renewal process five years in advance of expiration of the lease.
- Agency rights to terminate leases should be limited to reasons of national security.

Challenges and Solutions – Summary

Challenge	Solution
Unclear points of contact for local, state, and federal leads for agencies.	Every project should have a single, clear point of contact for application review and follow-up.

Clear Points of Contact Recommendations

- Each agency should provide a contact person for handling applications related to each property.
- Each agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information.
- Each agency should designate a state contact responsible for each state to ensure consistency across field offices, forests, and national parks.
- One government entity, such as NTIA, should consistently compile this information on one online portal.
- Each federal agency should implement an escalation or appeal process when broadband facility requests are delayed or denied.
- Each agency should have an ombudsman to resolve permitting problems.

Challenges and Solutions – Summary

Challenge	Solution
Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history.	There should be a single, easily accessible online-tracking mechanism at each agency for the permitting process. All Agencies should regularly report on permit status, the number of permitting applications they have processed, and on coverage gaps.

Application Tracking Recommendations

- Agencies should employ a single online permitting application tracking mechanism.
- The FCC and other federal agencies should review the Administration's Federal Infrastructure Permitting Dashboard as a possible efficient tracking mechanism.
- The FCC or Congress should set executive-level quantifiable goals for broadband deployments with each agency having an identified direct-reporting lead responsible for implementation by achieving actual deployments.
- Transparently report the number of processed permitting applications quarterly.
- Provide a regular report to identify coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands.
- Regularly publish information about areas designated by agencies as "telecom areas."

Challenges and Solutions – Summary

Challenge	Solution
Lack of re-evaluation of processes and fees as technologies evolve.	The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.

Technological Evolution Re-Evaluation Recommendations

- Agencies should use application forms to initiate amendments to existing installations and the applicable lease, easement or right-of-way.
- Federal agencies should incorporate small cells, distributed antenna systems (DAS), and indoor coverage into their streamlining processes.
- Federal agencies should create a system for how to evaluate new technologies and determine how they should be reviewed for permitting.

Challenges and Solutions – Summary

Challenge	Solution
Department of Defense (DoD) Siting Process is costly and time-consuming.	Consistent with all necessary measures to protect national security, DoD agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their military base broadband deployment permitting practices on DoD real estate. DoD agencies should also streamline their spectrum clearance processes.

DoD Siting Process Recommendations

- Develop streamlining mechanisms for small cells, DAS, and indoor deployments.
- DoD agencies should evaluate the effectiveness of the Navy Memo process and implementation as they develop their own broadband infrastructure siting review process.
- DoD agencies should employ shorter and parallel process steps, particularly making Joint Spectrum Center review concurrent with the RFP process—30 days or less for each process.
- Streamline RF spectrum clearance processes by eliminating duplicate spectrum interference reviews where one has already been completed for a similar instillation and by extending the time period during which the review is valid.
- Agencies should incorporate all possible spectrum bands for operation into the initial RF study.

Challenges and Solutions – Summary

Challenge	Solution
Siting barriers caused by federal funding clauses.	Deploying broadband is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

Federal Funding Clauses Recommendations

- Land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services.

- All agencies, states, and localities should be advised that deploying broadband is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

Next Steps

- Incorporate feedback from November BDAC meeting.
- Review any public comments on the report.
- Incorporate feedback from federal agencies for further refinement.
- Present updated report and recommendations at Jan. 23 and 24 full BDAC meeting.
- BDAC votes on recommendations.
- FCC reviews recommendations and decides if and how to implement them.

Questions?

Contact Jonathan Adelstein at adelstein@wia.org; 703-535-7400

THE SECRETARY OF THE INTERIOR

WASHINGTON

ORDER NO. 3355

Subject: Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807, "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects"

Sec. 1 **Purpose**. This Order is intended to: 1) immediately implement certain improvements to National Environmental Policy Act (NEPA) reviews conducted by the Department of the Interior (Department); 2) begin assessment of additional such opportunities; and 3) begin implementation of Executive Order 13807 of August 15, 2017, "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects" (E.O. 13807).

Sec. 2 **Authorities**. This Order is issued under the authority of section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended. Other statutory authorities for this Order include, but are not limited to, NEPA, 42 U.S.C. 4321-4347.

Sec. 3 **Background**. The Department has broad responsibilities to manage Federal lands and resources for the public's benefit. The NEPA applies to the execution of many of the Department's responsibilities with the goal of ensuring that information regarding environmental impacts is available to decisionmakers and the public before decisions are made. The NEPA accomplishes this goal by requiring Federal agencies to prepare an Environmental Impact Statement (EIS) for major Federal actions significantly affecting the quality of the human environment.

Both the Department and the Council on Environmental Quality (CEQ) have issued regulations to implement NEPA. Because the purpose of NEPA's requirements is not the generation of paperwork, but the adoption of sound decisions based on an informed understanding of environmental consequences, the regulations encourage agencies to: 1) focus on issues that truly matter rather than amassing unnecessary detail; 2) reduce paperwork, including by setting appropriate page limits; 3) discuss briefly issues that are not significant; and 4) prepare analytic (rather than encyclopedic) documents, among other measures.

In recognition of the impediments to efficient development of public and private projects that can be created by needlessly complex NEPA analysis, I am issuing this Order to enhance and modernize the Department's NEPA processes, with immediate focus on bringing even greater discipline to the documentation of the Department's analyses and identifying opportunities to further increase efficiencies.

This NEPA-streamlining effort dovetails with E.O. 13807. Among other requirements, E.O. 13807 requires CEQ to take actions to enhance and modernize the Federal environmental review process and to form an inter-agency working group to identify agency-specific

impediments to efficient and effective reviews for covered infrastructure projects. This Order begins implementation of E.O. 13807 in the context of the Department's overall effort to streamline the NEPA process.

Sec. 4 **Directives**.

a. Setting Page and Timing Limitations for Environmental Impact Statements.

(1) To implement the longstanding directives in 43 C.F.R. 46.405, and in 40 C.F.R. 1500.4 and 1502.7, all EISs 1) for which a bureau is the lead agency and 2) that have not reached the drafting stage shall not be more than 150 pages or 300 pages for unusually complex projects, excluding appendices. Approval of the Assistant Secretary with responsibility for the matter, in coordination with the Solicitor, is required to produce an EIS exceeding the above stated page limitations. In instances of EISs prepared with bureaus serving as co-leads, each responsible Assistant Secretary shall approve any deviations from this policy. To meet the page limitations, each preparer should focus on various techniques such as tiering or incorporation by reference.

(2) To ensure timely completion of EISs, and consistent with the timelines established for major infrastructure projects in E.O. 13807, each bureau shall have a target to complete each Final EIS for which it is the lead agency within 1 year from the issuance of a Notice of Intent (NOI) to prepare an EIS. The initial timeline must be developed by the lead bureau before issuing the NOI in accordance with 43 C.F.R. 46.240, taking into account all relevant timing factors listed therein, including any constraints required by cooperating agencies. An updated timeline should be prepared as needed during the development of the EIS (e.g., at the completion of scoping or if additional time is provided for public comment). Timelines exceeding the target by more than 3 months must be approved by the Assistant Secretary with responsibility for the matter. In instances of EISs prepared with bureaus serving as co-leads, each responsible Assistant Secretary must approve any deviations from this policy.

b. Setting Target Page and Timing Limitations for the Preparation of Environmental Assessments. Within 30 days, each bureau head shall provide to the Deputy Secretary through its supervising Assistant Secretary a proposal for target page limitations and time deadlines for the preparation of environmental assessments. Any common impediments to achieving the proposed targets should also be identified. In developing its proposal, each bureau should consider guidance from CEQ on the page length of environmental assessments. (Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, 46 Fed. Reg. 18,026, 18,037, Question and Answer 36a. (Mar. 23, 1981)).

c. Additional NEPA-Streamlining Review.

(1) The Deputy Secretary will coordinate a review of the Department's NEPA procedures to identify additional ways to streamline the completion of NEPA responsibilities. The review will include, but is not limited to, the following areas:

(a) bureau/office NEPA regulations, policies, guidance, and processes to identify: 1) impediments to efficient and effective reviews; 2) best practices and whether they can be implemented more widely; and 3) whether the Department should consider establishing additional categorical exclusions or revising current ones;

(b) requirements and process improvements under Title 41 of the Fixing America's Surface Transportation (FAST) Act, 42 U.S.C. 4370m-1(c)(1)(D), to determine whether any best practices can be broadly applied, including to projects beyond the terms of the FAST Act;

(c) requirements and process improvements required by E.O. 13807, to determine whether any best practices can be broadly applied, including to any projects beyond the terms of E.O 13807; and

(d) CEQ NEPA regulations and guidance to assess whether to recommend changes to facilitate agency processes.

(2) Within 30 days of the effective date of this Order, each Assistant Secretary, in coordination with bureau heads, should provide recommendations for actions to streamline the NEPA process to include potential regulatory revisions, development of revised or additional categorical exclusions, revised or new guidance or policies, and recommendations on streamlining the surnaming process.

d. Implementation of E.O. 13807. The Deputy Secretary will also coordinate implementation of E.O. 13807.

(1) In order to begin implementation of E.O. 13807, each Assistant Secretary, in coordination with the bureau heads, is hereby directed to identify:

(a) potential impediments to efficient and effective reviews for infrastructure and develop an action plan to address such impediments as a subset of the review required in Sec. 4c(1)(a) above;

(b) potential actions that could be taken by CEQ to facilitate a review of major infrastructure projects, as a subset of the review required in Sec. 4c(1)(d) above; and

(c) pending proposals for major infrastructure projects, as defined in E.O. 13807 and that are not yet the subject of a NOI issued by the Department, that could be candidates for the "One Federal Decision" process.

(2) Within 30 days of the effective date of this Order, each Assistant Secretary, in coordination with the bureau heads, should provide the information requested in Sec. 4d(1)(a)-(c) above.

Sec. 5 **Implementation**. The Deputy Secretary is responsible for implementing all aspects of this Order, in coordination with the Solicitor and the Assistant Secretaries.

Sec. 6 **Effect of the Order**. This Order is intended to improve the internal management of the Department. This Order and any resulting report or recommendations are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officer or employees, or any other person. To the extent there is any inconsistency between the provisions of this Order and any Federal laws or regulations, the laws or regulations will control.

Sec. 7 **Expiration Date**. This Order is effective immediately and will remain in effect until it is amended, superseded, or revoked, whichever occurs first.

/s/ David Bernhardt

Deputy Secretary

Date: August 31, 2017

Broadband Deployment Advisory Committee

Streamlining Federal Siting Working Group

Jonathan Adelstein (WIA), Chair

Valerie Fast Horse (Coeur d'Alene Tribe), Vice Chair

Broadband Deployment Advisory Committee Working Group: Streamlining Federal Siting

Membership Announced August 3, 2017

- The group has held thirteen weekly calls

Expert Presenters

- October 4, 2017 - Thomas Kidd, Department of the Navy Spectrum Policy Director
- October 18, 2017 – Grace Koh, Special Assistant to the President on Technology, Telecom and

Statistics

- The US consists of 2.27 billion acres
- 28% or approximately 636 million acres are owned by the federal government

Members ** indicates a member of the Broadband Deployment Advisory Committee*

- Jonathan Adelstein, WIA, Chair*
- Valerie Fast Horse, Coeur d'Alene Tribe, Vice Chair*
- Mark Buell, Regional Bureau Director, North America The Internet Society
- Shirley Bloomfield, Chief Executive Officer, NTCA – The Rural Broadband Association
- Carri Bennet, General Counsel, The Rural Wireless Association
- Brian Boisvert, Chief Executive Officer, General Manager, Wilson Communications
- Skyler Ditchfield, Chief Executive Officer, GeoLinks
- Stephanie Holderfield, Advisor, Office of Public and Indian Housing Department of Housing and Urban Development
- Betsy Huber, President*, National Grange
- John Jones, Senior Vice President, Public Policy and Regulatory Affairs, CenturyLink
- Daniel Jorjani, Principal Deputy Solicitor and Acting Solicitor, Department of Interior

- Kellie McGinness Kubena, Director, Engineering and Environmental Staff, Rural Utilities Service Department of Agriculture, Rural Development
- Mark N. Lewellen, Manager of Spectrum Advocacy, John Deere
- Ron McCue, President and Chief Operating Officer, Silver Star Communications
- Chris Murphy, Associate General Counsel, Regulatory, ViaSat, Inc.
- Michael Nedd, Acting Director, Bureau of Land Management, Department of Interior
- Steve Papa, Chairman and Chief Executive Officer, Parallel Wireless
- Bruce Patterson, Technology Director, City of Ammon, Idaho
- Elizabeth Pierce, Chief Executive Officer*, Quintillion
- William Reinehart

Task and Goals

Develop recommendations to improve the process of siting on federal lands and federally managed properties, such as by:

- Recommending standard procedures for facility siting;
- Examining and providing recommendations on how to standardize the duration of leases and easements;
- Considering whether to recommend a shot clock for the processing of applications for facilities siting on Federal land by Federal agencies
- Exploring and reporting on possible methods for Federal agencies to identify and report on coverage gaps and deficiencies and;
- Recommending procedures for creating and maintaining a publicly accessible inventory of space that can be used to attach or install broadband infrastructure.

2017 DELIVERABLE: Present recommendations for a vote at the October/November BDAC meeting, including possible recommendations for further study.

Challenges and Solutions – Executive Summary

Challenge	Varying / unpredictable fees and rates.
Solution	Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes.
Challenge	Lengthy application review times.
Solution	Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.
Challenge	Unharmonized application forms & unpredictable processes across agencies.
Solution	Require all agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.
Challenge	Cumbersome historic and environmental review processes including environmental studies and GIS studies.
Solution	Harmonize environmental assessments across agencies, further streamline NEPA and NHPA exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.

Challenges and Solutions – Executive Summary

Challenge Lease and renewal terms that do not incentivize investment.

Solution - All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment.

Challenge Unclear points of contact for local, state, and federal leads for agencies

Solution - Every project should have a single, clear point of contact for application review and follow-up

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Challenge - Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history

Solution - There should be a single, easily accessible online-tracking mechanism for the permitting process. All Agencies should regularly report on permit status, the number of permitting applications they have processed and on coverage gaps.

Challenges and Solutions – Executive Summary

Challenge Lack of re-evaluation of processes and fees as technologies evolve

Solution
- The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.

Challenge
- Department of Defense Siting Process (including real estate and RF spectrum clearance) costly and time-consuming

Solution
- DoD agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their deployment on bases permitting practices. DoD agencies should streamline their spectrum clearance processes.

Challenge Siting Barriers Caused by Federal Funding Clauses

Solution
- All federal land grant provisions precluding broadband deployment should be eliminated

Federal Siting Background Resources

- Federal Lands Mapping Resource
- GSA Inventory of Owned and Leased Properties
- Broadband Opportunity Council Agencies' Progress Report - January 2017
- Broadband Interagency Working Group (BIWG) Members POCs
- Advisory Council on Historic Preservation ACHP 2017 Program Comment for Communications Projects on Federal Lands and Property
- U.S. House of Representatives, Committee on Energy and Commerce, Memo re "Broadband: Deploying America's 21st Century Infrastructure" March 2017 Hearing

Federal Siting Background Resources

- President Obama Executive Order -- Accelerating Broadband Infrastructure Deployment
- President Trump Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure
  - Federal Permitting Improvement Steering Council (FPISC)
  - https://www.permits.performance.gov/about
  - https://www.permits.performance.gov/about/news/omb-and-ceq-jointly-issue-fast-41-guidance
- Department of Navy Streamlined Process for Commercial Broadband Deployment memorandum
- DOI Secretarial Order 3355 Streamlining NEPA and Implementation of EO 13807

Next Steps

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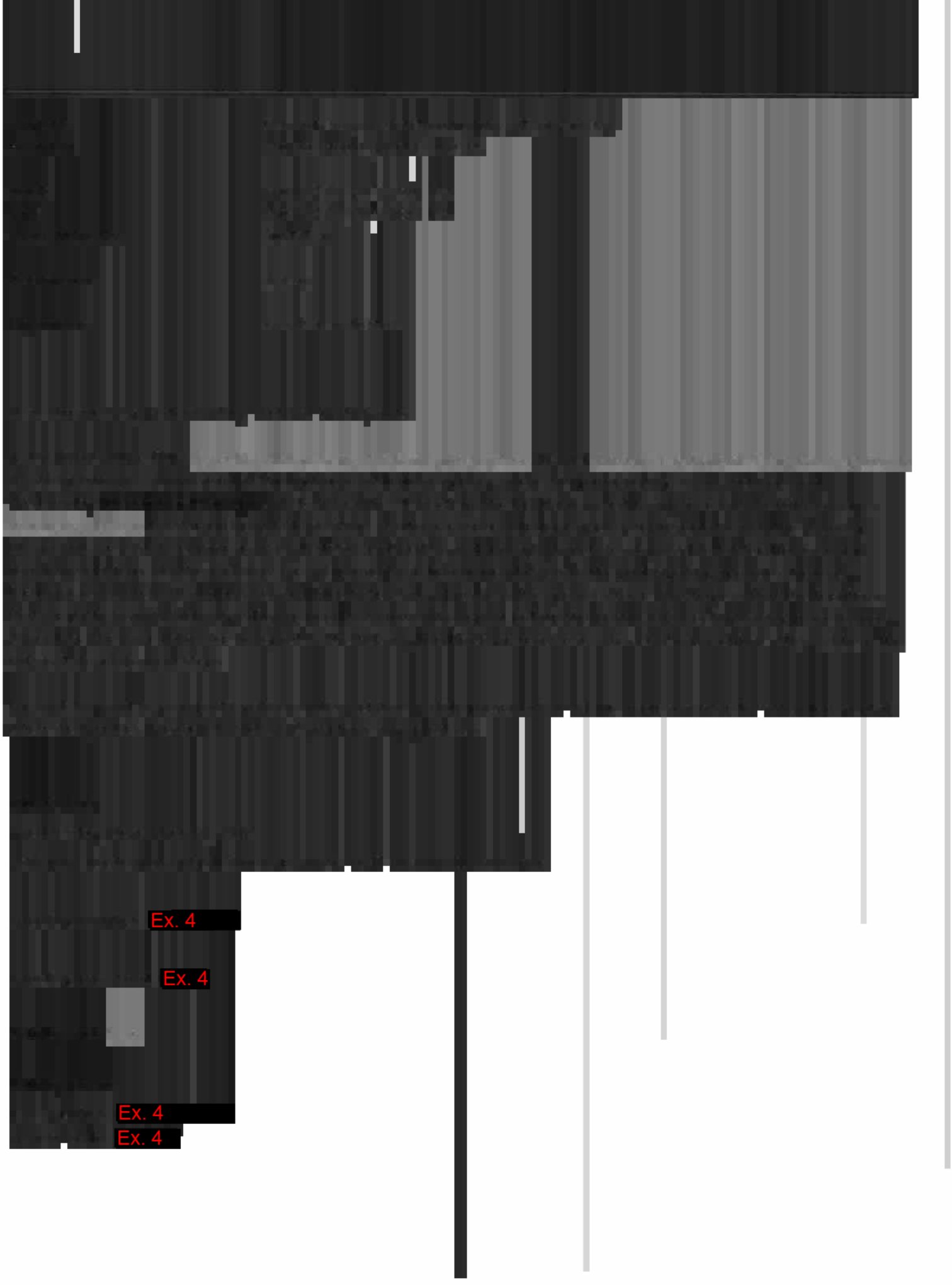
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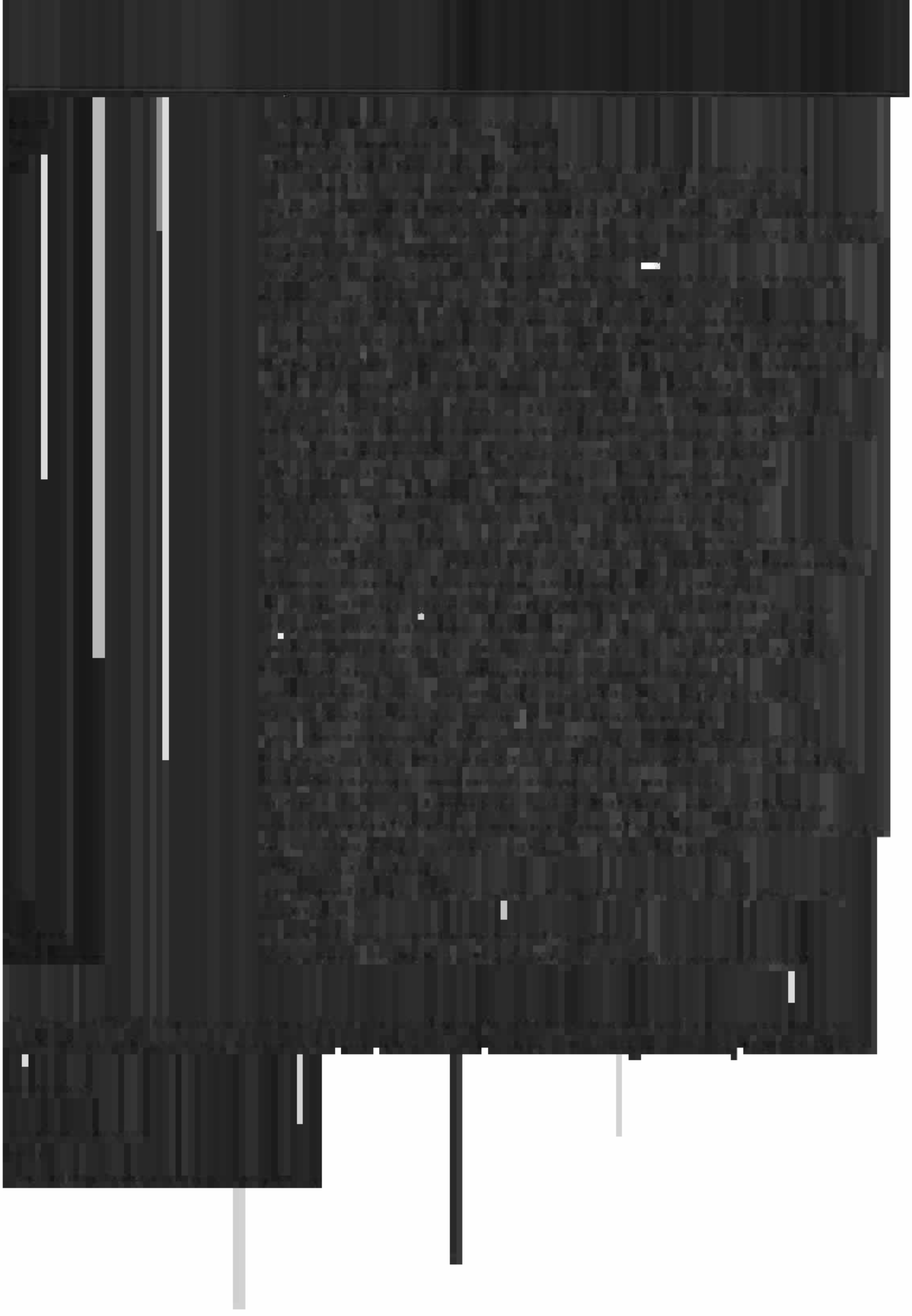

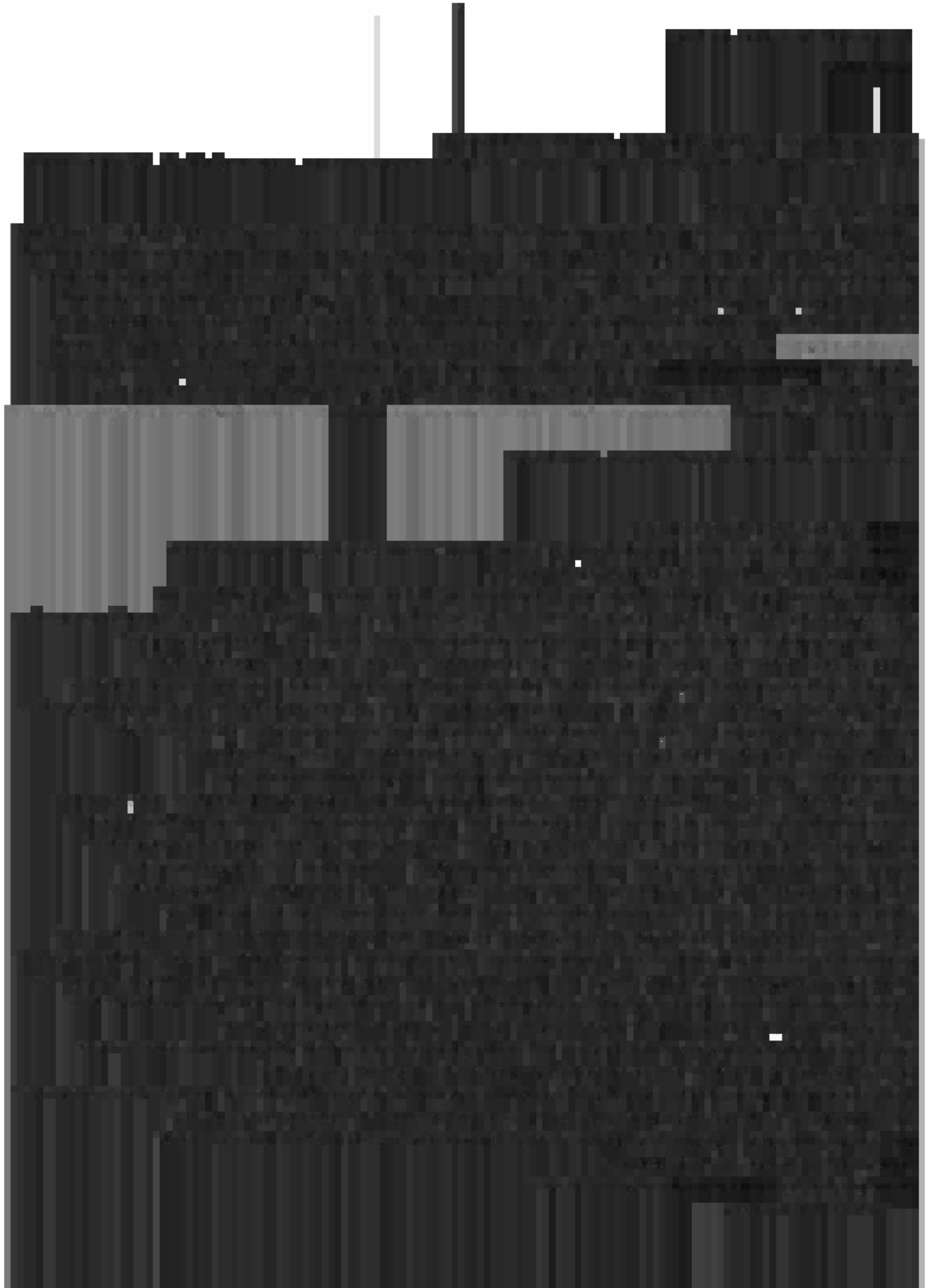


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BDAC Streamlining Federal Siting Working Group

December 13, 2017 Federal Agency Webinar Readout

During the BDAC Streamlining Federal Siting Working Group Webinar with federal agencies, we received the most feedback from federal agencies on the following topics: fees, review times, application forms and processes, historic and environmental review, lease terms and points of contact, and transparency on agency deployment history.

Fees

- The Bureau of Land Management (BLM) noted that the law requires them to recover full cost. They also said that it is hard to set what the fees will be in advance, but they do publish a fee schedule.
- BLM said that the laws applicable to them allow them to get some of the rental fee back. Federal appropriations gives them some fees, and it does help because they get additional staff.
- Carri Bennet (SFSWG member, Rural Wireless Association) explained that land use fees generally go to the treasury. She also noted that there is a GSA decision that says agencies cannot receive cost recovery and land use fees.
- The Forest Service noted that it is difficult for them to run a program when they have 2700 broadband authorizations, 4000 communications instillations on 1500 sites across the nation with only one national site person. They noted that there is a piece in the President's budget that would help them if passed.
- The agencies requested that we clarify whether the security deposits we discuss in our recommendation is referring to cash or bond. BLM requires a bond.

Review Times

- The federal agencies agreed that responding to applicants within a reasonable time period is important, but they expressed concerns with having a deemed granted/approved remedy.
- BLM tries to streamline its reviews by allowing collocations without having to get approval from BLM for the collocations. BLM explained that at any given time they have 5000 right-of-way applications with less than 200 realty specialists. 1000 plus of those applications are natural gas. While BLM has a 60-day review time criteria, telecommunications projects are not the priority. At any given time one person can be handling 30 sites, and a project can slip through the cracks.
- Deemed approved would mean that projects that slip through the cracks get to continue without any kind of review, and the agencies viewed this possibility as problematic. BLM representatives indicated that deemed approved for facilities on GSA-owned property in a city may not be a problem, but the land the bureau manages would not work under this approach.
- Jonathan Adelstein noted that perhaps a compromise could be made with agencies requesting extension of the shot clock or requiring environmental review as necessary.
- To cut down review time, BLM said that it uses prior environmental documents, programmatic environmental assessments, and allows industry to present already completed environmental assessments.
- The National Park Service representative noted that ¾ of the parks that they manage are cultural or historic parks, so deemed approve would cause a lot of concern.

Application Forms and Process

- BLM, NPS, and Forest Service all agreed that the GSA common form application is not useful to them because it does not have all the elements they need. These agencies noted that GSA did not work with them to create the common form application, and they noted that GSA only has expertise in rooftop instillations, not land use.
- BLM, NPS, and Forest Service are using Standard Form 299 (online), and they recommend that all land managing agencies use that form.

Historic and Environmental Review

- The agencies generally agreed with having streamlined environmental and historic review to the extent possible.
- BLM highlighted that they have a number of categorical exclusions from historic and environmental review. Sometimes they only require a minimal environmental assessment as well.
- The agencies expressed concerns about collocation exclusions because they have experienced infrastructure providers building new equipment shelters to accommodate new tenants.
    - One Working Group member noted that he does multiple collocations that do not require new equipment houses.
- Federal agencies discussed the FirstNet Programmatic Environmental Impact Study (EIS). FirstNet explained its desires to have nationwide coverage with AT&T expanding its footprint.
    - The federal agencies indicated that they should be able to use FirstNet's Programmatic EIS as a streamlining mechanism.

Lease Terms

- The federal agencies expressed no concern with the working group recommendations concerning length of lease terms.
- BLM noted that its standard lease term is 20-30 years, and renewal are completed 120 days before expiration of a lease.

Points of Contact

- The federal agencies expressed no concern with the working group recommendations concerning points of contact.
- BLM explained that it has an application review appeal process; however, that process takes 2-3 years to complete.

Transparency on Agency Deployment History

- There was a brief discussion on federal agency coverage gap analysis, and the agencies explained the difficulties they face in compiling data on where there is and is not coverage on their lands. They also expressed concerns with any rhetoric that places the burden on them to expand coverage everywhere, especially into the wilderness. They did not view broadband expansion as part of their mission.
- Agencies asked whether industry would be willing to fund data projects.

BROADBAND DEPLOYMENT ADVISORY COMMITTEE: STREAMLINING FEDERAL SITING WORKING GROUP

FINAL REPORT, ~~NOV. 9, 2017~~Jan. 23, 2018

SUMMARY OF CHALLENGES AND SOLUTIONS

1. *Challenge*: Varying and unpredictable fees and rates.
   Solution: Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes.

2. *Challenge*: Lengthy application review times.
   Solution: Require all federal landholding or managing agencies to prioritize broadband permitting. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.

3. *Challenge*: Unharmonized application forms and unpredictable processes across agencies.
   Solution: Require all federal landholding or managing agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.

4. *Challenge*: Cumbersome historic and environmental review processes including environmental studies and Geographic Information System studies.
   Solution: Harmonize environmental assessments across federal landholding or managing agencies, further streamline National Environmental Protection Act and National Historic Preservation Act exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.

5. *Challenge*: Lease and renewal terms that do not incentivize investment.
   Solution: All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment.

6. *Challenge*: Unclear points of contact for local, state, and federal leads for agencies.
   Solution: Every project should have a single, clear point of contact for application review and follow-up.

7. *Challenge*: Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history.

Solution: There should be a single, easily accessible online-tracking mechanism at each federal agency for the permitting process. All agencies should regularly report on permit status, the number of permitting applications they have processed, and on coverage gaps.

8. *Challenge*: Lack of re-evaluation of processes and fees as technologies evolve.
   Solution: The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.

9. *Challenge*: Department of Defense Siting Process is costly and time-consuming.
   ~~*Solution:*~~*Solution*: Permitting consistent with all necessary measures to protect national security, Department of Defense (DoD) agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their military base broadband deployment permitting practices~~.~~ on DoD real estate. DoD agencies should streamline their spectrum clearance processes.

10. *Challenge*: Siting barriers caused by federal funding clauses.
    Solution: ~~All federal land grant provisions directly or indirectly precluding~~Deploying broadband ~~deployment should be eliminated.~~is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

INTRODUCTION

The Federal Communications Commission (FCC or Commission) Broadband Deployment Advisory Committee, Streamlining Federal Siting Working Group (Working Group) applauds the Commission's interests in removing regulatory barriers to broadband deployment on federal lands and property, which amounts to nearly 30 percent of the U.S. landmass. As Chairman Pai correctly noted, "[broadband is] becoming the 21st-century gateway to jobs, health care, education, information, and economic development everywhere, from the smallest town to the largest city."[1] The Trump Administration has also emphasized the importance of broadband deployment, especially in rural America. In a recent Presidential Memorandum, the Administration reiterated that the executive branch will "use all viable tools to accelerate the development and adoption of affordable, reliable, modern high-speed broadband connectivity in rural America. . . . [In particular], the executive branch will seek to make Federal assets

[1] *Chairman Pai Forms Broadband Deployment Advisory Committee*, FCC News Release (Jan. 31, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-343242A1.pdf.

more available for rural broadband deployment," subject to national security concerns.[2] Developing recommendations to improve the process of siting on federal lands and federally managed properties, as this Working Group has been tasked,[3] will incentivize investment in the deployment of next-generation broadband that will enhance public safety and enable smart solutions in communities across the country.

The Working Group recommends that the FCC evaluate the solutions herein presented to determine which government entity(ies) should effectuate and implement the proposed action. The Working Group encourages the FCC to continue in its advisory capacity to the Broadband Interagency Working Group (formerly the Broadband Opportunity Council) to provide broadband infrastructure policy expertise and ensure that the recommendations herein contained are implemented effectively.

Through its deliberations, the Working Group found that the fundamental concerns regarding the streamlining of federal siting are 1.) predictability and complexity of the application process and accompanying requirements and 2.) the application review time.

Finally, the Working Group took great pains to ensure that the recommendations contained herein are entirely "technology-neutral," in other words, that they address barriers to broadband infrastructure deployment faced by both wireline and wireless service providers. Entities seeking to deploy, for example, broadband infrastructure such as wireless towers or fiber facilities used for wireline and wireless broadband service face the "challenges" identified by this report on an equal basis. Adoption of the "solutions" identified in this report will ensure that next-generation wireline and wireless broadband infrastructure can be brought to millions of American consumers in a more expeditious manner while also respecting Federal agencies statutory duties as stewards of Federal land. For further clarity, it must be noted that references to "siting" in this report are at all times intended to refer to the installation of both wireless (e.g., tower) and wireline facilities.

RECOMMENDED SOLUTIONS TO ADDRESS FEDERAL SITING CHALLENGES

1. Varying and unpredictable fees and rates

The Working Group recommends that all administrative fees associated with federal siting applications should be set at a national level. Additionally, all federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to providers to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee

[2] Presidential Memorandum for the Secretary of the Interior, Sec. 1 (Jan. 8, 2018), available at https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-interior/ (Presidential Memorandum for DOI).

[3] By the direction of FCC staff, the Streamlining Federal Siting Working Group was instructed not to include Tribal lands in the Working Group's deliberations and recommendations.

schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.

Security deposit requirements also vary and are unpredictable. Working Group members agree that requirements for a security deposit are misplaced prior to the lease or easement negotiation stage. While an application fee is reasonably required with the proposed form, it would be highly unusual and burdensome to require a security deposit prior to negotiation and execution of a lease or easement. As a practice, security deposits are generally collected from credit poor, unknown tenants, in contrast to the broadband providers who have decades of experience across the country with federal civilian and military sites. Therefore, there should be no need for security deposits. Artificially increasing the cost of deploying broadband infrastructure is contrary to the national policy of accelerating broadband availability. However, should a deposit be required, deposits should be refunded if an agreement is not executed due to no fault of applicant.

Additionally, the Working Group recommends that federal agencies utilize predictable measurers for rent increases such as annual Consumer Price Index or fixed percent increases. Fair market appraisal updates should be conducted every ten years instead of every five years. Also, an agency should not require a provider to share with the agency the revenue it obtains from subsequent collocators. Where a military installation is the sole or primary beneficiary of the infrastructure, agencies should allow for rent elimination or in-kind rent reduction.

Because many federal agencies express that staff constraints are a cause of delay in reviewing siting applications, the Working Group recommends that all federal agencies should ~~receive~~retain more of the ~~revenue~~fees they ~~generate~~collect from broadband deployment. Agencies can use the ~~revenue~~fees retained to hire more staff to focus on their communications site programs to improve response times and enable other efficiencies. Similarly, there should be reasonable ~~revenue share for broadband infrastructure siting~~sharing of fees between agency headquarters and field offices~~.~~ for broadband infrastructure siting. Field offices ~~gaining revenue~~retaining more of the fees from the applications they process may provide incentives to streamline the application process and review more applications. The Working Group also recommends that, where the opportunity exists, Congress should harmonize what fees are retained across all federal agencies.

The Working Group discovered that not all equipment deployed on federal lands and property receive the same review scrutiny as broadband infrastructure. Agencies should ensure that broadband service ~~is treated similarly to utilities deployed on federal lands, which typically receive~~ receives the same faster approvals at lower costs as utilities receive when deploying on federal lands.

2. Lengthy application review times

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In keeping with the national goal of ensuring that "all people of the United State have access to broadband capability"[4] and whereas there is national agreement to eliminate barriers to broadband infrastructure deployment,[5] Congress should mandate that all federal agencies prioritize broadband permitting and implement funding and application review changes that reflect the prioritization of broadband deployment.

Infrastructure providers report delays in broadband permitting application processing across federal agencies. For example, InterConnect Towers (ICT), a wireless infrastructure provider that has been providing wireless coverage on federal land since 1998, provided data to the Working Group that ICT alone has 30 serialized Bureau of Land Management applications across California, Nevada, and Arizona that have been pending since 2013.[6]

The Department of Interior (DOI) is working to streamline its infrastructure project review processes as evidenced by the recent release of its Order "Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," which creates a target for each DOI bureau to "complete each Final [Environmental Impact Statements] for which it is the lead agency within 1 year from the issuance of a Notice of Intent (NOI) to prepare and EIS."[7] However, Working Group members agree that all federal landholding and managing agencies can do more to reduce review times in all of their broadband permitting steps.

Consequently, the Working Group urges the FCC to emphasize that timely responses to broadband siting applications are mandatory. Consistent with GSA Bulletin FMR 2007-B2, agencies should be required to process and respond to each application within a specified time period – no more than 60 days. Additionally, applications should be "deemed approved" upon passage of time. Expanding broadband is a very important national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, federal agencies should apply the FCC's deemed approved policy whereby applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency-specific statutory authority to provide a deemed approved remedy).[8] Agencies seeking an

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[4] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009).
[5] *Broadband Deploying America's 21st Century Infrastructure Hearing Before the Subcomm. on the Communications and Technology of the H. Comm. on Energy and Commerce Committee*, 115th Cong. (Mar. 17, 2017) (Majority Subcomm Staff Memorandum to Members), available at http://docs.house.gov/meetings/IF/IF16/20170321/105740/HHRG-115-IF16-20170321-SD002-U1.pdf.
[6] *See*, Comments of Interconnect Towers LLC, DOI Docket No. 2017-0003-0191, at 2, 13 (filed ~~October~~Oct. 10, 2017) (noting "ICT alone, for example, has 30 serialized applications across California, Nevada, and Arizona that have been pending since 2013 (See Attachment A)").
[7] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, Section 4.a.(2), (Dep't of Interior Aug. 31, 2017), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.
[8] *See* Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act"), Pub. L. No. 112-96, 126 Stat. 156, 232-33 § 6409(a) (2012) ("Spectrum Act") (codified at 47 U.S.C. § 1455(a)). *Acceleration of Broadband*

extension of the shot clock should provide~~submit~~ a written explanation ~~request~~ articulating why a timely response was not possible and/or why such a adherence to the shot clock is otherwise not possible. The timeframes included herein are the same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment.[9] To ensure transparency, Agencies could submit explanations in a manner similar to that required for project delays under FAST-41. Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting broadband throughout all federal properties.

The Working Group recommends that if requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The federal agency should notify the applicant within ten days of receipt of the application if the agency believes the application is not materially complete and it needs to be amended or modified. The agency should identify the specific form for incompleteness. The applicant should submit the revised application within 60 days of being notified of the error. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Sites sometimes go into holdover status after completion of a lease term but before renewal. Therefore, the Working Group also recommends that application review priority be given to site permit agreements that are expired or soon to expire.

~~Applications should be "deemed approved" upon passage of time. Expanding broadband is a very important national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency specific statutory authority to provide a deemed approved remedy). These timeframes are the same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting wireline and wireless broadband throughout all federal properties.~~

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Additionally, efficiencies would be gained if federal agencies are able to use the applicant's diligence to shorten approval times and reduce costs. For instance, rather than perform all portions of the application review itself, a federal agency could use recent site inspection photos to supplement its own inspection process. The reviewing agency could also use National Environmental Policy Act (NEPA) reviews and

Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd 12865, 12866-67 ¶ 3 (2014) ("*2014 Wireless Infrastructure Order*"), *aff'd, Montgomery County v. F.C.C.*, 811 F.3d 121 (4th Cir. 2015).

[9] The FCC is currently reviewing comments about expanding the applicability of "deemed approved" proposals. Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, *Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment*, FCC 17-38 (rel. Apr. 21, 2017) ¶¶ 8-9. Any "deemed approved" remedy adopted by the FCC should be the standard applied by all federal agencies.

other regulatory studies completed recently by the applicant. There should be a formalized process for agencies to utilize past NEPA review materials regardless of which agency conducted the review.

Similarly, the Working Group recommends the development of formalized guidance on scenarios in which a project is likely to involve multiple agencies. The lead agency reviewing the application should highlight and coordinate with the other agencies that should be involved.

To further expedite the application process, agencies should automatically accept document revision requests to correct obvious clerical errors within an application. A common clerical error requiring application correction is an incorrect/incomplete entity name in the preamble, body, and/or signature block of an application. Additionally, document preparers should have flexibility in cases where applicants are reasonably unable to comply with specific provisions. The most common example involves the insurance provisions. Often, the federal insurance requirements are not commercially available, but the agencies are unable to revise the requirements for them in the application. Specifically, the government unrealistically requires "per occurrence" insurance coverage amounts in lieu of adequate coverage in the aggregate.

The Working Group also recommends that federal agencies presume broadband siting applications to be consistent with each agency's mission and property use. Consistent with Section 704 of the Telecommunications Act, applications to place communications facilities should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and complete conflict with an agency's mission. The existence of other providers' wireline and/or wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its property. If the executive agency rejects an application because it is in direct conflict with the agency's mission or use of its property, the executive agency should provide in writing all factual bases proving that the application is in direct and complete conflict with the agency's mission or use of its property. Those factual bases should be provided to the provider in writing, concurrently with the rejection.

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Having pre-approved installation types with the ability to make minor pre-approved changes would lessen the burden on the agency for approval and will result in faster installation for the service provider. The Working Group encourages agencies to use Program Comments, Programmatic Environmental Assessments, or other vehicles to identify categories of facilities to apply streamlined approval.[10] Pre-approved installation types could vary based on the type of agency and the nature of the site region or specific location. These pre-approved installation types could be listed on the agencies website or documentation. This would also allow the agency to promote certain types of installations they prefer by making the approval and permitting process for those particular types of installations streamlined.

[10] *See* Advisory Council on Historic Preservation (ACHP), Program Comment for Communications Projects on Federal Lands and Property (May 8, 2017), available at http://www.achp.gov/docs/broadband-program-comment.pdf (ACHP Program Comment).

3. *Unharmonized application forms and unpredictable processes across agencies*

Unharmonized application forms

The Working Group recommends that there be one required, standardized siting permit application form for agencies to use with elements that apply to specific agencies. Agencies should work with industry to create standard templates to be applied across all agencies and within the different offices within each agency.

In 2015, the General Service Administration released its Wireless Telecommunications Company Application (GSA Common Form Application) to serve as a common application "for use by all land-holding executive agencies, streamlin[ing] the collection of business information that will be used by the Federal Government to negotiate specific antenna installation contracts and to obtain a point of contact for each applicant."[11] Being over two years out from release, agencies and industry should evaluate the effectiveness of the GSA Common Form Application. The Working Group is pleased that the President issued an Executive Order on January 8, 2018 (Rural Broadband Streamlining Executive Order), requiring GSA, "in coordination with the heads of Federal property managing agencies, shall evaluate the effectiveness of the GSA Common Form Application for use in streamlining and expediting the processing and review of requests to locate broadband facilities on Federal real property."[12]The Working Group strongly encourages GSA to work with other federal agencies to ensure usefulness of the Common Form Application and to better encourage adoption of the application across all federal agencies.~~The Working Group proposes that GSA revise its Common Form Application as follows:~~

The Working Group proposes that GSA revise its Common Form Application as follows:~~o~~

- *GSA should revise the form so that it is "technology-neutral," applicable to wireline and wireless technologies.* As stated in the Introduction, entities seeking to deploy wireline and wireless broadband service face the "challenges" identified by this report on an equal basis. That certainly applies to the lack of harmonization or consistency in the process of applying to construct broadband infrastructure on federal lands. The current GSA Common Form Application applies only to wireless providers as instructed by Congress in Section 6409 of the Spectrum Act. The GSA should broaden its scope so that it is applicable to all forms of broadband infrastructure without regard to technology and should consult with providers to ensure that its scope and language is sufficiently broad.[13]

[11] General Service Administration, Wireless Telecommunications Company Application (current revision Sep. 2015), available at https://www.gsa.gov/forms-library/wireless-telecommunications-company-application.

[12] Presidential Executive Order on Streamlining and Expediting Requests to Locate Broadband Facilities in Rural America Sec. 2 https://www.whitehouse.gov/presidential-actions/presidential-executive-order-streamlining-expediting-requests-locate-broadband-facilities-rural-america/ ("Rural Broadband Streamlining Executive Order").

[13] For instance GSA can update its "Potential Antenna Lessee Document Check List" to account for items necessary beyond antenna siting.

- *GSA should require each agency to provide a contact person for handling applications related to each property.* Under the Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process.
- ~~o~~ *A single online tracking mechanism should be utilized.* The GSA application should require documentation of an online application tracking mechanism for each agency so that the agenc(ies) and applicant can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate offices responsible for each broadband siting application, along with point of contact information.
- ~~o~~ *RFI certification report requirement should be clarified.* A Radio Frequency Identification (RFI) certification report is listed as a potential document that may be required under the common application Document Check List. This section should be clarified to state that RFI reports are not required outside of military installations. Such reports have not been necessary over decades of industry experience, and there is no need to add an additional report that has not been required previously.
- ~~o~~ *The application form should not implicate a JSC review for commercial providers of unlicensed wireless services*. An FCC license is typically not required to operate unlicensed wireless services for operations that meet certain FCC requirements for unlicensed use of spectrum, such as non-interference and power limits. Therefore, unlicensed use that meets this standard should not be subjected to additional spectrum reviews, such as the Joint Spectrum Center (JSC) review. The Defense Information Systems Agency operates JSC as a required process by GSA and the Department of Defense to identify and mitigate electromagnetic interference to base electronics and spectrum-dependent systems before approving a commercial wireless system installation. The actions GSA takes with the common application in proposing a common application form for siting wireless facilities on federal land or buildings should not trigger a JSC review for commercial providers of unlicensed wireless services.
- ~~o~~ *"Federal, state and local statutory recording requirements" should be clarified or deleted.* This section should be clarified to either describe exactly what is being required, or it should be omitted. Recording requirements may be a protection or benefit to the applicant. However, to the extent this type of document has not been required previously, it should not impose a new requirement on providers.
- ~~o~~ For the reasons discussed in the fees and rates section above, all *requirements for a security deposit should be eliminated at the application stage.*
- ~~o~~ *Requirements for a performance bond should be eliminated.* The requirement for a performance bond has not been a common practice in federal wireline or wireless siting, and adding this new requirement at the application stage is both unnecessary and contrary to the policy objective of removing obstacles to accelerated broadband investment and availability. This is especially true when a national wireless provider is the applicant, and

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there has been no showing that a performance bond is necessary for these providers or any others at the application stage.

- ~~o~~ *Certain information requested is too broad.* The requested fields of "Name of Officers, Members, or Owners of Concern, Partnership, etc.," "Federal EIN / State Tax ID," and "D&B Rating," lie outside of normal business purposes. The requested "FCC License" information field would not apply to certain applicants, namely, neutral-host wireless providers. The "Person Authorized to Sign Contracts" information is too detailed; there is no reason to provide detailed contact information for someone who will not be handling the day-to-day issues at the site. Moreover, most companies have multiple potential signing parties, but this form only allows for one. Finally, more feedback on what numbers 1 and 7 are meant to reference on the "Potential Document Check List" would be helpful to applicants.
- ~~o~~ *GSA should clarify the title of the proposed common form application.* In its request for public comments, GSA referred to the proposed application as the "Wireless Telecommunications Industry Application"; however, the application form is titled "Wireless Telecommunications Company Application." For clarity and consistency, GSA should clarify the title of the common form application.
- ~~o~~ *Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way.* Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right-of-way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new wireless infrastructure requests, and for amendments to existing wireless infrastructure.

In addition to adopting a common application, agencies should adopt a standard, streamlined process for access to assets for broadband siting. For instance, the President recently directed the Secretary of the Interior to:

a. "Develop a plan to support rural broadband development and adoption by increasing access to tower facilities and other infrastructure assets managed by the Department of the Interior (DOI)," including the drafting of "model terms and conditions for use in securing tower facilities and other infrastructure assets for broadband deployment."[14]
b. Issue a report within 180 days to the Director of the Office of Science and Technology Policy "identifying the assets that can be used to support rural broadband deployment and adoption."[15]

Unpredictable processes across agencies

The Working Group urges that broadband infrastructure siting processes should be harmonized across agencies to the extent possible. Also, there should be consistency in how files are processed by the

[14] Presidential Memorandum for DOI at Sec. 2(a).
[15] *Id.* at Sec. 2(b).

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various offices within each agency. Each agency should create a uniform process within each of its regional, state, and field offices.

To ease the burden of the applicant communicating with multiple agencies involved with a site with their varying processes, the Working Group recommends a standardized approach to mapping out which agencies will be involved with a project early on in the application process. There should be a process to ensure that relevant information is shared with the federal agencies involved. Such a system can be executed through the GSA Common Form Application or a similar common application if there is a field on the application to check a box for potentially involved agencies. GSA should mandate standard template contract(s) that apply across all federal agencies. These contracts should be executable in 30-60 days.

Additionally, the Working Group suggests that agencies measure the number of contracts they sign for new sites and new carriers on existing sites. This is consistent with the Rural Broadband Streamlining Executive Order, which requires federal property managing agencies to report to GSA their "required use of the Common Form Application, the number of Common Form Applications received, the percentage approved, the percentage rejected, the basis for any rejection, and the number of working days each application was pending before being approved or rejected."[16] The Executive Order also requires that "each report shall include the number of applications received, approved, and rejected within the preceding quarter."[17]

The Rural Broadband Streamlining Executive Order also requires that on a quarterly basis, "the GSA Administrator shall prepare and provide to the Director of the Office of Management and Budget an aggregated summary report detailing results from the reports submitted."[18] Tracking executed contracts will help measure whether broadband deployment is in fact increasing on federal lands and property. There should be incentives for agencies approving applications. One such incentive could be that agencies receive partial fee retention through, for example, retaining initial rents.

All federal agencies with land management authority should update and harmonize their rights-of-way rules. For example, Department of Interior agencies should update its rights-of-way rules to align to the Bureau of Indian Affairs updated rights-of-way rules with respect to application timelines, effective in 2016. Each agency should conduct a thorough evaluation of their siting rules and processes and streamline them to reduce burdens and encourage investment in broadband deployment. Certain federal land management agencies follow regulations that require infrastructure providers to hold FCC licenses or utilize agreements with the same requirement. These provisions are holdovers from when licensed carriers constructed their own infrastructure.

[16] Rural Broadband Streamlining Executive Order at Sec. 2(d).
[17] *Id.*
[18] *Id.* at Sec. 2(e).

Policy changes such as allowing applicants to opt in to the rates, terms, and conditions of other providers located at the federal property would encourage investment. Once a federal property is opened for any telecommunications provider, then the property should be open to any and all other providers, without delay, on a non-discriminatory basis to the extent feasible by engineering standards. For example, if one provider's equipment is located on a water tank, then a subsequent provider should be permitted to collocate, as engineering permits, on that same water tank in a substantially similar, but not necessarily identical fashion, opting into the rates, terms and conditions of the initial provider's lease or easement or other legal arrangement. This procedure is consistent with, and may be required by, the anti-discrimination requirement in Section 704(c) of the Telecommunications Act.

Additionally, access to federal lands sites for wireless infrastructure development should be available to tower owners, operators, managers, and other authorized personnel, where applicable. Obvious exceptions for security reasons aside, infrastructure providers need to be able to access the sites quickly, especially in the case of emergencies. Federal agencies should be directed to recognize tower operator sublease and management interests. Some agencies do not consider that tower operators lease or manage a significant number of towers that are still owned by the carriers.

Another siting process improvement that can further spur broadband deployment is applying "dig once" policies. "dig once" requirements refer to "requirements designed to reduce the number and scale of repeated excavations for the installation and maintenance of broadband facilities in rights of way."[19] That is, where there is a construction plan digging for one purpose, such as highway construction, broadband infrastructure installation and maintenance should also take place with that same dig. In other words, "dig once."

The Federal Highway Administration has indicated that "ninety percent of the cost of deploying broadband is when the work requires significant excavation of the roadway."[20] Dig once policies are important to broadband deployment because coordinating highway construction projects with the installation of broadband infrastructure could reduce costs incurred by repeated excavation. Dig once also reduces deployment time by eliminating the need to acquire duplicative reviews and permits for work done at the same location.

It is important, however, that dig once policies do not disadvantage providers with facilities already placed in the right-of-way adjacent to such highway construction projects. Providers with facilities already in the right-of-way should not be required to incur new costs to accommodate the installation of new facilities installed as part of a dig once construction project. In addition, such existing providers

[19] Accelerating Broadband Infrastructure Deployment Exec. Order No. 13616 77 Fed. Reg. 36903 (Jun. 14 2012) available at https://www.whitehouse.gov/the-press-office/2012/06/14/executive-order-accelerating-broadband-infrastructure-deployment.

[20] *See* Federal Highway Administration EXECUTIVE ORDER: ACCELERATING BROADBAND INFRASTRUCTURE DEPLOYMENT Background Paper and Work Plan Strategy Dig Once Section (Dec. 2012) available at https://www.fhwa.dot.gov/policy/otps/workplan cfm#dig (last visited Jan. 10, 2018).

should be able to avail themselves voluntarily of any rates, terms, or conditions made available to providers granted access to the right-of-way as part of a dig once project.

Since being required to do so in 2012, some federal agencies and state and local governments have enacted dig once policies or coordination strategies.[21] In 2015, members of Congress introduced dig once legislation, but they have not been enacted. Dig once is included in the MOBILE NOW Act, which passed the Senate by unanimous consent on Aug. 3, 2017, but has not been enacted. Despite movement on the issue, dig once policies have not been widely adopted. The Working Group encourages the Department of Transportation and other relevant agencies to continue their work to adopt dig once policies and to provide guidance to states and encourage their implementation of a dig once policy.

[21] *Id.*

4. Cumbersome historic and environmental review processes

The Working Group recommends that environmental assessments be harmonized across agencies to reduce confusion and redundancy. Environmental impact studies should be valid for a reasonable amount of time so they do not have to be redone. Where surveys or other studies are completed as part of the environmental review, those findings should be available to federal agencies and applicants to use during the reasonable time period.

All federal agencies should ease permitting requirements in previously disturbed areas ~~that have previously undergone environmental review.~~ All federal agencies should streamline their National Historic Preservation Act (NHPA) historic preservation review process by finalizing a list of broadband activities exempted from Section 106 consultation. The Working Group recommends that the FCC expand E106 & FCC Tower Construction Notification System program. All federal agencies should also finalize NEPA categorical exclusions that will exempt broadband projects from Environmental Assessments for sites that involve, for example, cell site compounds, aerial cable, and previously disturbed grounds.

The Advisory Council on Historic Preservation (ACHP) should clarify applicability of its new *Program Comment for Communications Projects on Federal Lands and Property*[22] to all federal agencies, revising the introduction, "Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope." To avoid confusion, "may elect" should be struck and ACHP should affirmatively require the use of the Program Comment by all federal agencies. The Working Group recommends the following additional changes to the Program Comment:

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1. The Program Comment should be revised to apply to all Federal Land Managing Agencies (LMAs) and Federal Property Managing Agencies (PMAs). As currently drafted, elective utilization of the Program Comment process does not ensure the expedited and efficient siting procedures necessary to better serve the exponentially growing data demands on networks and the underlying infrastructure.
2. Agencies should be required to process and respond to each application within a specified time period—no more than 60 days.
3. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Applicants should

[22] ACHP Program Comment.

have a right to cure their application by making corrections based on written grounds for rejection received.

4. Throughout the application process, Federal LMAs and PMAs should be required to provide application status updates at the request of applicants. Greater transparency during and after the application process has completed will improve the application submission process and will provide documentation for applicants to use with other historic preservation review processes such as the FCC's NEPA review process
5. Applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved. These timeframes are similar timeframes to what the FCC established for municipalities in land use approvals to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years with no action taken by the federal agency, which is contrary to the national policy promoting broadband throughout all federal properties.

Lastly, the Working Group recommends a thorough evaluation of the August 15, 2017 Executive Order 13807 *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*. The Order incorporates "broadband internet" projects in its efforts to "ensure that the Federal environmental review and permitting process for infrastructure projects is coordinated, predictable, and transparent." Agencies should be held accountable to implement the order's directives within a specified time period.[23]

5. *Lease and renewal terms that do not incentivize investment*

The Working Group recommends that executive agencies utilize easements or leases with 30 or more-year terms with expectancy of renewal for wireline or wireless siting requests. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit telecommunications facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireline or wireless installations, but that easements are an acceptable legal transaction for the placement of wireline and wireless facilities on federal property. Agencies should also be notified that to minimize the cost— on both the agency and the provider—of future siting applications, and given the extensive capital investment of long-lived assets required for the installation of wireline and wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms at least 30 years long and with renewal expectancy.

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Ideally, lease terms should extend to the useful life of the assets. The Working Group urges the standardization of lease terms within each type of technology. To avoid holdover leases, agencies should

[23] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects* (Dep't of Interior Aug. 31, 2017) (DOI began its Executive Order implementation), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

begin the lease renewal process five years in advance of expiration of the lease. Site agreements often expire without a clear path to renewal. Agency rights to terminate leases should be limited to reasons of national security.

6. *Unclear points of contact for local, state, and federal leads for agencies*

The Working Group recommends that GSA, or other designated agency, should require each agency to provide a contact person for handling applications related to each property. Under GSA's Common Form Application Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process. This process should also apply to wireline broadband installations.

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Each federal agency should designate a state contact that covers each state to ensure consistency across field offices, forests, and national parks. Additionally, each federal agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information. One government entity, such as NTIA, should consistently compile this information on one online portal.[24]

The Working Group encourages each federal agency to implement an escalation or appeal process when broadband facility requests are delayed or denied. Furthermore, each agency should have an ombudsman to resolve permitting problems. Formalizing this process will ensure more consistent treatment of applications.

7. *Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history*

[24] *See* National Telecommunications Information Administration (NTIA), Broadband Interagency Working Group, Broadband Opportunity Council Agencies' Progress Report (Dep't of Commerce Jan. 2017) (NTIA's BroadbandUSA website will house a one-stop portal), available at https://www.ntia.doc.gov/files/ntia/publications/broadband_opportunity_council_agencies_progress_report_jan2017.pdf.

As discussed above, agencies should employ a ~~a~~ single online permitting application tracking mechanism. ~~GSA, or other designated~~Each federal agency~~,~~ should ~~require each executive agency~~be required to create a single online application tracking mechanism so that the agenc(ies) and applicants can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible, along with contact information, for a specific application. The Working Group encourages the FCC and other federal agencies to review the Administration's Federal Infrastructure Permitting Dashboard,[25] which includes infrastructure projects identified as Covered Projects under Title 41 of the Fixing America's Surface Transportation (FAST) Act, Department of Transportation projects, and other tracked projects. This dashboard is not currently used to track broadband infrastructure projects across federal agencies; however, agencies may find it efficient to track their projects in this manner.

All agencies should provide the applicant with information regarding the standard processing time for permitting at the agency (within the established shot clock) so that providers can schedule construction projects in a timely manner.

The Working Group also urges the FCC or Congress to set executive-level quantifiable goals for broadband deployments such as collecting aggregate, industry-level commitment counts to deploy broadband sites on federal lands, and agencies should publish performance against the goals. Each agency should have an identified direct-reporting lead responsible for implementation by achieving actual deployments. Federal agencies should focus on deployment results, beyond intermediary process changes. Each agency should also create deployment transparency mechanism such as a monthly web post of the number of contracts signed, new deployments, and new carriers deployed on existing sites. ~~Every quarter,~~And as now required by the Rural Broadband Streamlining Executive Order, every quarter federal agencies should transparently report the number of permitting applications they have processed.

~~All federal Agencies should provide a~~Such regular ~~report~~reporting will get our nation closer to ~~identify~~identifying coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as "telecom areas" would also be helpful. These are areas where the necessary studies and reviews have been successfully completed and where siting may, therefore, be easier. Agencies can call for public input in identifying these areas. Such reporting will enable agencies to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost and afford a platform to discuss solutions to these challenge

[25] *See* Federal Infrastructure Permitting Dashboard, available at https://www.permits.performance.gov/projects.

8. Lack of re-evaluation of processes and fees as technologies evolve

The Working Group recommends that application forms be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way. Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA Common Form Application for new broadband infrastructure requests, *and* for amendments to existing broadband infrastructure.

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The Working Group also urges federal agencies to incorporate small cells, distributed antenna systems (DAS), and indoor coverage into their streamlining processes. There is often a lag between the introduction or increased use of a technology and when federal agencies adopt procedures to process the siting requests. Federal agencies should create a system for how to evaluate new technologies and determine how they should be reviewed for permitting.

9. DoD siting process costly and time-consuming

The Working Group found that siting broadband facilities on Department of Defense (DoD) property presents unique challenges. ~~Nevertheless~~Consistent with all necessary measures to protect national security, DoD agencies should streamline deployment as indicated in the above recommendations but in keeping with national security interests.

The DoD should reexamine rules and policies regarding the permitting and deployment of broadband within bases and on all DoD real estate, including separate authorizations required for services offered over the same facilities. In some cases, cable operators have been prohibited from deploying Wi-Fi facilities for use by Americans living on military bases.

The Department of the Navy (DoN) is a good example of a DoD agency that completed a thorough example of its permitting processes and executed a path towards streamlining broadband deployment on its property. Industry successfully collaborated with the DoN for two years on the development and release of its memorandum titled "Streamlined Process for Commercial Broadband Deployment," (Navy Memo) which was signed by the Deputy Under Secretary of the Navy (DUSN) for Management on June

30, 2016.[26] The new guidelines "set a goal for DON installation to meet or exceed national averages for broadband coverage and capacity," according to the official memorandum. According to the Wireless Infrastructure Association, which coordinated industry participation, "the new wireless facility siting procedures cut down a project coordination and siting deployment process that could take up to five or more years to complete to less than one year."[27]

The DoN is now evaluating an update to its memo to incorporate small cells, DAS, and indoor deployments into its streamlining processes. Other DoD agencies should evaluate the effectiveness of the Navy Memo process and implementation as they develop their own broadband infrastructure siting review process.

The Working Group urges DoD agencies to employ shorter and parallel process steps, particularly making JSC review concurrent with the RFP process. Agencies should accelerate the JSC pre-work, application-to-bid mechanism to less than 30 days. Agencies should also streamline the RFP process by moving it online, reducing processing to 30 days, and allowing multiple carriers "to win" per each RFP.

Military agencies should also streamline their RF spectrum clearance processes by eliminating duplicate spectrum interference reviews where one has already been completed for a similar instillation. RF clearance should be valid for an extended period of time. Additionally, agencies should incorporate all possible spectrum bands for operation into the initial RF study so that providers do not have to repeatedly conduct studies for new deployments or new carriers being added to the neutral host.

10. Siting barriers caused by federal funding clauses

The Working Group found that some states impose restrictions on broadband infrastructure deployment in local parks developed with federal funds. For example, Virginia has a restriction that:

> property acquired or developed with LWCF [Land & Water Conservation Fund Act of 1965] assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired and/or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act.[28]

[26] Dep't of the Navy, Deputy Under Secretary of the Navy Memo, *Streamlined Process for Commercial Broadband Deployment* (Jun. 30, 2016), available at http://www.doncio.navy.mil/ContentView.aspx?ID=8008.
[27] Wireless Infrastructure Association, *Wireless Industry Applauds U.S. Navy's Push to Streamline Wireless Siting Process on Federal Bases* (Jul. 8, 2016), available at https://wia.org/wireless-industry-applauds-u-s-navys-push-streamline-wireless-siting-process-federal-bases/.
[28] State of Virginia, Conversion of Use General Information, available at http://www.dcr.virginia.gov/recreational-planning/document/lwcf-conversion.pdf.

Site reviewers in Virginia are interpreting this law as prohibiting wireless infrastructure deployment, labeling such deployment as a prohibited commercial endeavor. It is not likely that the provision of broadband services is the type of activity the Land and Water Conservation Fund Act of 1965 was trying to protect against. Therefore, the Working Group recommends that land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services. All agencies, states, and localities should be advised that deploying broadband is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

BROADBAND DEPLOYMENT ADVISORY COMMITTEE: STREAMLINING FEDERAL SITING WORKING GROUP

FINAL REPORT, ~~NOV. 9, 2017~~Jan. 23, 2018

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SUMMARY OF CHALLENGES AND SOLUTIONS

1. *Challenge*: Varying and unpredictable fees and rates.
   Solution: Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes.

2. *Challenge*: Lengthy application review times.
   Solution: Require all federal landholding or managing agencies to prioritize broadband permitting. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.

3. *Challenge*: Unharmonized application forms and unpredictable processes across agencies.
   Solution: Require all federal landholding or managing agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.

4. *Challenge*: Cumbersome historic and environmental review processes including environmental studies and Geographic Information System studies.
   Solution: Harmonize environmental assessments across federal landholding or managing agencies, further streamline National Environmental Protection Act and National Historic Preservation Act exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.

5. *Challenge*: Lease and renewal terms that do not incentivize investment.
   Solution: All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment.

6. *Challenge*: Unclear points of contact for local, state, and federal leads for agencies.
   Solution: Every project should have a single, clear point of contact for application review and follow-up.

7. *Challenge*: Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history.
   Solution: There should be a single, easily accessible online-tracking mechanism at each federal agency for the permitting process. All agencies should regularly report on permit status, the number of permitting applications they have processed, and on coverage gaps.

8. *Challenge*: Lack of re-evaluation of processes and fees as technologies evolve.

Solution: The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.

9. *Challenge*: Department of Defense Siting Process is costly and time-consuming.
   ~~*Solution*:~~*Solution*: Permitting consistent with all necessary measures to protect national security, Department of Defense (DoD) agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their military base broadband deployment permitting practices~~.~~ on DoD real estate. DoD agencies should streamline their spectrum clearance processes.

10. *Challenge*: Siting barriers caused by federal funding clauses.
    Solution: ~~All federal land grant provisions directly or indirectly precluding~~Deploying broadband ~~deployment should be eliminated.~~is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

INTRODUCTION

The Federal Communications Commission (FCC or Commission) Broadband Deployment Advisory Committee, Streamlining Federal Siting Working Group (Working Group) applauds the Commission's interests in removing regulatory barriers to broadband deployment on federal lands and property, which amounts to nearly 30 percent of the U.S. landmass. As Chairman Pai correctly noted, "[broadband is] becoming the 21st-century gateway to jobs, health care, education, information, and economic development everywhere, from the smallest town to the largest city."[1] The Trump Administration has also emphasized the importance of broadband deployment, especially in rural America. In a recent Presidential Memorandum, the Administration reiterated that the executive branch will "use all viable tools to accelerate the development and adoption of affordable, reliable, modern high-speed broadband connectivity in rural America. . . . [In particular], the executive branch will seek to make Federal assets more available for rural broadband deployment," subject to national security concerns.[2] Developing recommendations to improve the process of siting on federal lands and federally managed properties, as this Working Group has been tasked,[3] will incentivize investment in the deployment of next-generation broadband that will enhance public safety and enable smart solutions in communities across the country.

The Working Group recommends that the FCC evaluate the solutions herein presented to determine which government entity(ies) should effectuate and implement the proposed action. The Working Group encourages the FCC to continue in its advisory capacity to the Broadband Interagency Working Group

[1] *Chairman Pai Forms Broadband Deployment Advisory Committee*, FCC News Release (Jan. 31, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-343242A1.pdf.

[2] Presidential Memorandum for the Secretary of the Interior Sec. 1 (Jan. 8 2018) available at https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-interior/ (Presidential Memorandum for DOI).

[3] By the direction of FCC staff, the Streamlining Federal Siting Working Group was instructed not to include Tribal lands in the Working Group's deliberations and recommendations.

(formerly the Broadband Opportunity Council) to provide broadband infrastructure policy expertise and ensure that the recommendations herein contained are implemented effectively.

Through its deliberations, the Working Group found that the fundamental concerns regarding the streamlining of federal siting are 1.) predictability and complexity of the application process and accompanying requirements and 2.) the application review time.

Finally, the Working Group took great pains to ensure that the recommendations contained herein are entirely "technology-neutral," in other words, that they address barriers to broadband infrastructure deployment faced by both wireline and wireless service providers. Entities seeking to deploy, for example, broadband infrastructure such as wireless towers or fiber facilities used for wireline and wireless broadband service face the "challenges" identified by this report on an equal basis. Adoption of the "solutions" identified in this report will ensure that next-generation wireline and wireless broadband infrastructure can be brought to millions of American consumers in a more expeditious manner while also respecting Federal agencies statutory duties as stewards of Federal land. For further clarity, it must be noted that references to "siting" in this report are at all times intended to refer to the installation of both wireless (e.g., tower) and wireline facilities.

RECOMMENDED SOLUTIONS TO ADDRESS FEDERAL SITING CHALLENGES

1. Varying and unpredictable fees and rates

The Working Group recommends that all administrative fees associated with federal siting applications should be set at a national level. Additionally, all federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to providers to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.

Security deposit requirements also vary and are unpredictable. Working Group members agree that requirements for a security deposit are misplaced prior to the lease or easement negotiation stage. While an application fee is reasonably required with the proposed form, it would be highly unusual and burdensome to require a security deposit prior to negotiation and execution of a lease or easement. As a practice, security deposits are generally collected from credit poor, unknown tenants, in contrast to the broadband providers who have decades of experience across the country with federal civilian and military sites. Therefore, there should be no need for security deposits. Artificially increasing the cost of deploying broadband infrastructure is contrary to the national policy of accelerating broadband availability. However, should a deposit be required, deposits should be refunded if an agreement is not executed due to no fault of applicant.

Additionally, the Working Group recommends that federal agencies utilize predictable measurers for rent increases such as annual Consumer Price Index or fixed percent increases. Fair market appraisal updates should be conducted every ten years instead of every five years. Also, an agency should not require a provider to share with the agency the revenue it obtains from subsequent collocators. Where a military installation is the sole or primary beneficiary of the infrastructure, agencies should allow for rent elimination or in-kind rent reduction.

Because many federal agencies express that staff constraints are a cause of delay in reviewing siting applications, the Working Group recommends that all federal agencies should ~~receive~~retain more of the ~~revenue~~fees they ~~generate~~collect from broadband deployment. Agencies can use the ~~revenue~~fees retained to hire more staff to focus on their communications site programs to improve response times and enable other efficiencies. Similarly, there should be reasonable ~~revenue share for broadband infrastructure siting~~sharing of fees between agency headquarters and field offices~~.~~ for broadband infrastructure siting. Field offices ~~gaining revenue~~retaining more of the fees from the applications they process may provide incentives to streamline the application process and review more applications. The Working Group also recommends that, where the opportunity exists, Congress should harmonize what fees are retained across all federal agencies.

The Working Group discovered that not all equipment deployed on federal lands and property receive the same review scrutiny as broadband infrastructure. Agencies should ensure that broadband service ~~is treated similarly to utilities deployed on federal lands, which typically receive~~ receives the same faster approvals at lower costs as utilities receive when deploying on federal lands.

2. Lengthy application review times

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In keeping with the national goal of ensuring that "all people of the United State have access to broadband capability"[4] and whereas there is national agreement to eliminate barriers to broadband infrastructure deployment,[5] Congress should mandate that all federal agencies prioritize broadband permitting and implement funding and application review changes that reflect the prioritization of broadband deployment.

Infrastructure providers report delays in broadband permitting application processing across federal agencies. For example, InterConnect Towers (ICT), a wireless infrastructure provider that has been providing wireless coverage on federal land since 1998, provided data to the Working Group that ICT alone has 30 serialized Bureau of Land Management applications across California, Nevada, and Arizona that have been pending since 2013.[6]

[4] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009).

[5] *Broadband Deploying America's 21st Century Infrastructure Hearing Before the Subcomm. on the Communications and Technology of the H. Comm. on Energy and Commerce Committee*, 115th Cong. (Mar. 17, 2017) (Majority Subcomm Staff Memorandum to Members), available at http://docs.house.gov/meetings/IF/IF16/20170321/105740/HHRG-115-IF16-20170321-SD002-U1.pdf.

[6] *See*, Comments of Interconnect Towers LLC, DOI Docket No. 2017-0003-0191, at 2, 13 (filed ~~October~~Oct. 10, 2017) (noting "ICT alone, for example, has 30 serialized applications across California, Nevada, and Arizona that have been pending since 2013 (See Attachment A)").

The Department of Interior (DOI) is working to streamline its infrastructure project review processes as evidenced by the recent release of its Order "Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," which creates a target for each DOI bureau to "complete each Final [Environmental Impact Statements] for which it is the lead agency within 1 year from the issuance of a Notice of Intent (NOI) to prepare and EIS."[7] However, Working Group members agree that all federal landholding and managing agencies can do more to reduce review times in all of their broadband permitting steps.

Consequently, the Working Group urges the FCC to emphasize that timely responses to broadband siting applications are mandatory. Consistent with GSA Bulletin FMR 2007-B2, agencies should be required to process and respond to each application within a specified time period – no more than 60 days. Additionally, applications should be "deemed approved" upon passage of time. Expanding broadband is a very important national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, federal agencies should apply the FCC's deemed approved policy whereby applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency-specific statutory authority to provide a deemed approved remedy).[8] Agencies seeking an extension of the shot clock should submit a written explanation~~request~~ articulating why a timely response was not possible and/or why such a adherence to the shot clock is otherwise not possible similar to that implemented with the FAST 41 Dashboard. The timeframes included herein are the same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment.[9] Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting broadband throughout all federal properties.

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The Working Group recommends that if requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The federal agency should notify the applicant within ten days of receipt of the application if the agency believes the application is not materially complete and it needs to be amended or modified. The agency should identify the specific form for incompleteness. The applicant should submit the revised application within 60 days of being notified of the error. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Sites sometimes go into holdover status after completion of a lease term but before renewal. Therefore, the Working

[7] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, Section 4.a.(2), (Dep't of Interior Aug. 31, 2017), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

[8] *See* Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act"), Pub. L. No. 112-96, 126 Stat. 156, 232-33 § 6409(a) (2012) ("Spectrum Act") (codified at 47 U.S.C. § 1455(a)). *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865, 12866-67 ¶ 3 (2014) ("*2014 Wireless Infrastructure Order*"), *aff'd, Montgomery County v. F.C.C.*, 811 F.3d 121 (4th Cir. 2015).

[9] The FCC is currently reviewing comments about expanding the applicability of "deemed approved" proposals. Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, *Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment*, FCC 17-38 (rel. Apr. 21, 2017) ¶¶ 8-9. Any "deemed approved" remedy adopted by the FCC should be the standard applied by all federal agencies.

Group also recommends that application review priority be given to site permit agreements that are expired or soon to expire.

~~Applications should be "deemed approved" upon passage of time. Expanding broadband is a very important national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency specific statutory authority to provide a deemed approved remedy). These timeframes are the same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting wireline and wireless broadband throughout all federal properties.~~

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Additionally, efficiencies would be gained if federal agencies are able to use the applicant's diligence to shorten approval times and reduce costs. For instance, rather than perform all portions of the application review itself, a federal agency could use recent site inspection photos to supplement its own inspection process. The reviewing agency could also use National Environmental Policy Act (NEPA) reviews and other regulatory studies completed recently by the applicant. There should be a formalized process for agencies to utilize past NEPA review materials regardless of which agency conducted the review.

Similarly, the Working Group recommends the development of formalized guidance on scenarios in which a project is likely to involve multiple agencies. The lead agency reviewing the application should highlight and coordinate with the other agencies that should be involved.

To further expedite the application process, agencies should automatically accept document revision requests to correct obvious clerical errors within an application. A common clerical error requiring application correction is an incorrect/incomplete entity name in the preamble, body, and/or signature block of an application. Additionally, document preparers should have flexibility in cases where applicants are reasonably unable to comply with specific provisions. The most common example involves the insurance provisions. Often, the federal insurance requirements are not commercially available, but the agencies are unable to revise the requirements for them in the application. Specifically, the government unrealistically requires "per occurrence" insurance coverage amounts in lieu of adequate coverage in the aggregate.

The Working Group also recommends that federal agencies presume broadband siting applications to be consistent with each agency's mission and property use. Consistent with Section 704 of the Telecommunications Act, applications to place communications facilities should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and complete conflict with an agency's mission. The existence of other providers' wireline and/or wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its property. If the executive agency rejects an application because it is in direct conflict with the agency's mission or use of its property, the executive agency should provide in writing all factual bases proving that the application is in direct and complete conflict with the agency's mission or use of its property. Those factual bases should be provided to the provider in writing, concurrently with the rejection.

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Having pre-approved installation types with the ability to make minor pre-approved changes would lessen the burden on the agency for approval and will result in faster installation for the service provider. The Working Group encourages agencies to use Program Comments, Programmatic Environmental Assessments, or other vehicles to identify categories of facilities to apply streamlined approval.[10] Pre-approved installation types could vary based on the type of agency and the nature of the site region or specific location. These pre-approved installation types could be listed on the agencies website or documentation. This would also allow the agency to promote certain types of installations they prefer by making the approval and permitting process for those particular types of installations streamlined.

3. Unharmonized application forms and unpredictable processes across agencies

Unharmonized application forms

The Working Group recommends that there be one required, standardized siting permit application form for agencies to use with elements that apply to specific agencies. Agencies should work with industry to create standard templates to be applied across all agencies and within the different offices within each agency.

In 2015, the General Service Administration released its Wireless Telecommunications Company Application (GSA Common Form Application) to serve as a common application "for use by all land-holding executive agencies, streamlin[ing] the collection of business information that will be used by the Federal Government to negotiate specific antenna installation contracts and to obtain a point of contact for each applicant."[11] Being over two years out from release, agencies and industry should evaluate the effectiveness of the GSA Common Form Application. The Working Group is pleased that the President issued an Executive Order on January 8, 2018 (Rural Broadband Streamlining Executive Order) requiring GSA, "in coordination with the heads of Federal property managing agencies, shall evaluate the effectiveness of the GSA Common Form Application for use in streamlining and expediting the processing and review of requests to locate broadband facilities on Federal real property."[12]The Working Group strongly encourages GSA to work with other federal agencies to ensure usefulness of the Common Form Application and to better encourage adoption of the application across all federal agencies.~~The Working Group proposes that GSA revise its Common Form Application as follows:~~

The Working Group proposes that GSA revise its Common Form Application as follows:~~o~~

[10] *See* Advisory Council on Historic Preservation (ACHP), Program Comment for Communications Projects on Federal Lands and Property (May 8, 2017), available at http://www.achp.gov/docs/broadband-program-comment.pdf (ACHP Program Comment).

[11] General Service Administration, Wireless Telecommunications Company Application (current revision Sep. 2015), available at https://www.gsa.gov/forms-library/wireless-telecommunications-company-application.

[12] Presidential Executive Order on Streamlining and Expediting Requests to Locate Broadband Facilities in Rural America Sec. 2 https://www.whitehouse.gov/presidential-actions/presidential-executive-order-streamlining-expediting-requests-locate-broadband-facilities-rural-america/ ("Rural Broadband Streamlining Executive Order").

- *GSA should revise the form so that it is "technology-neutral," applicable to wireline and wireless technologies.* As stated in the Introduction, entities seeking to deploy wireline and wireless broadband service face the "challenges" identified by this report on an equal basis. That certainly applies to the lack of harmonization or consistency in the process of applying to construct broadband infrastructure on federal lands. The current GSA Common Form Application applies only to wireless providers as instructed by Congress in Section 6409 of the Spectrum Act. The GSA should broaden its scope so that it is applicable to all forms of broadband infrastructure without regard to technology and should consult with providers to ensure that its scope and language is sufficiently broad.[13]
- *GSA should require each agency to provide a contact person for handling applications related to each property.* Under the Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process.
- ~~o~~ *A single online tracking mechanism should be utilized.* The GSA application should require documentation of an online application tracking mechanism for each agency so that the agenc(ies) and applicant can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate offices responsible for each broadband siting application, along with point of contact information.
- ~~o~~ *RFI certification report requirement should be clarified.* A Radio Frequency Identification (RFI) certification report is listed as a potential document that may be required under the common application Document Check List. This section should be clarified to state that RFI reports are not required outside of military installations. Such reports have not been necessary over decades of industry experience, and there is no need to add an additional report that has not been required previously.
- ~~o~~ *The application form should not implicate a JSC review for commercial providers of unlicensed wireless services*. An FCC license is typically not required to operate unlicensed wireless services for operations that meet certain FCC requirements for unlicensed use of spectrum, such as non-interference and power limits. Therefore, unlicensed use that meets this standard should not be subjected to additional spectrum reviews, such as the Joint Spectrum Center (JSC) review. The Defense Information Systems Agency operates JSC as a required process by GSA and the Department of Defense to identify and mitigate electromagnetic interference to base electronics and spectrum-dependent systems before approving a commercial wireless system installation. The actions GSA takes with the common application in proposing a common application form for siting wireless facilities on federal land or buildings should not trigger a JSC review for commercial providers of unlicensed wireless services.

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[13] For instance, GSA can update its "Potential Antenna Lessee Document Check List" to account for items necessary beyond antenna siting.

- ~~o~~ *"Federal, state and local statutory recording requirements" should be clarified or deleted.* This section should be clarified to either describe exactly what is being required, or it should be omitted. Recording requirements may be a protection or benefit to the applicant. However, to the extent this type of document has not been required previously, it should not impose a new requirement on providers.
- ~~o~~ For the reasons discussed in the fees and rates section above, all *requirements for a security deposit should be eliminated at the application stage.*
- ~~o~~ *Requirements for a performance bond should be eliminated.* The requirement for a performance bond has not been a common practice in federal wireline or wireless siting, and adding this new requirement at the application stage is both unnecessary and contrary to the policy objective of removing obstacles to accelerated broadband investment and availability. This is especially true when a national wireless provider is the applicant, and there has been no showing that a performance bond is necessary for these providers or any others at the application stage.
- ~~o~~ *Certain information requested is too broad.* The requested fields of "Name of Officers, Members, or Owners of Concern, Partnership, etc.," "Federal EIN / State Tax ID," and "D&B Rating," lie outside of normal business purposes. The requested "FCC License" information field would not apply to certain applicants, namely, neutral-host wireless providers. The "Person Authorized to Sign Contracts" information is too detailed; there is no reason to provide detailed contact information for someone who will not be handling the day-to-day issues at the site. Moreover, most companies have multiple potential signing parties, but this form only allows for one. Finally, more feedback on what numbers 1 and 7 are meant to reference on the "Potential Document Check List" would be helpful to applicants.
- ~~o~~ *GSA should clarify the title of the proposed common form application.* In its request for public comments, GSA referred to the proposed application as the "Wireless Telecommunications Industry Application"; however, the application form is titled "Wireless Telecommunications Company Application." For clarity and consistency, GSA should clarify the title of the common form application.
- ~~o~~ *Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way.* Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right-of-way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new wireless infrastructure requests, and for amendments to existing wireless infrastructure.

In addition to adopting a common application, agencies should adopt a standard, streamlined process for access to assets for broadband siting. For instance, the President recently directed the Secretary of the Interior to:

a. "Develop a plan to support rural broadband development and adoption by increasing access to tower facilities and other infrastructure assets managed by the Department of the Interior (DOI),"

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including the drafting of "model terms and conditions for use in securing tower facilities and other infrastructure assets for broadband deployment."[14]

b. Issue a report within 180 days to the Director of the Office of Science and Technology Policy "identifying the assets that can be used to support rural broadband deployment and adoption."[15]

Unpredictable processes across agencies

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The Working Group urges that broadband infrastructure siting processes should be harmonized across agencies to the extent possible. Also, there should be consistency in how files are processed by the various offices within each agency. Each agency should create a uniform process within each of its regional, state, and field offices.

To ease the burden of the applicant communicating with multiple agencies involved with a site with their varying processes, the Working Group recommends a standardized approach to mapping out which agencies will be involved with a project early on in the application process. There should be a process to ensure that relevant information is shared with the federal agencies involved. Such a system can be executed through the GSA Common Form Application or a similar common application if there is a field on the application to check a box for potentially involved agencies. GSA should mandate standard template contract(s) that apply across all federal agencies. These contracts should be executable in 30-60 days.

Additionally, the Working Group suggests that agencies measure the number of contracts they sign for new sites and new carriers on existing sites. This is consistent with the Rural Broadband Streamlining Executive Order, which requires federal property managing agencies to report to GSA their "required use of the Common Form Application, the number of Common Form Applications received, the percentage approved, the percentage rejected, the basis for any rejection, and the number of working days each application was pending before being approved or rejected."[16] The Executive Order also requires that "each report shall include the number of applications received, approved, and rejected within the preceding quarter."[17]

The Rural Broadband Streamlining Executive Order also requires that on a quarterly basis, "the GSA Administrator shall prepare and provide to the Director of the Office of Management and Budget an aggregated summary report detailing results from the reports submitted."[18] Tracking executed contracts will help measure whether broadband deployment is in fact increasing on federal lands and property. There should be incentives for agencies approving applications. One such incentive could be that agencies receive partial fee retention through, for example, retaining initial rents.

All federal agencies with land management authority should update and harmonize their rights-of-way rules. For example, Department of Interior agencies should update its rights-of-way rules to align to the Bureau of Indian Affairs updated rights-of-way rules with respect to application timelines, effective in 2016. Each agency should conduct a thorough evaluation of their siting rules and processes and streamline them to reduce burdens and encourage investment in broadband deployment. Certain federal

[14] Presidential Memorandum for DOI at Sec. 2(a).
[15] *Id.* at Sec. 2(b).
[16] Rural Broadband Streamlining Executive Order at Sec. 2(d).
[17] *Id.*
[18] *Id.* at Sec. 2(e).

land management agencies follow regulations that require infrastructure providers to hold FCC licenses or utilize agreements with the same requirement. These provisions are holdovers from when licensed carriers constructed their own infrastructure.

Policy changes such as allowing applicants to opt in to the rates, terms, and conditions of other providers located at the federal property would encourage investment. Once a federal property is opened for any telecommunications provider, then the property should be open to any and all other providers, without delay, on a non-discriminatory basis to the extent feasible by engineering standards. For example, if one provider's equipment is located on a water tank, then a subsequent provider should be permitted to collocate, as engineering permits, on that same water tank in a substantially similar, but not necessarily identical fashion, opting into the rates, terms and conditions of the initial provider's lease or easement or other legal arrangement. This procedure is consistent with, and may be required by, the anti-discrimination requirement in Section 704(c) of the Telecommunications Act.

Additionally, access to federal lands sites for wireless infrastructure development should be available to tower owners, operators, managers, and other authorized personnel, where applicable. Obvious exceptions for security reasons aside, infrastructure providers need to be able to access the sites quickly, especially in the case of emergencies. Federal agencies should be directed to recognize tower operator sublease and management interests. Some agencies do not consider that tower operators lease or manage a significant number of towers that are still owned by the carriers.

Another siting process improvement that can further spur broadband deployment is applying "dig once" policies. "dig once" requirements refer to "requirements designed to reduce the number and scale of repeated excavations for the installation and maintenance of broadband facilities in rights of way."[19] That is, where there is a construction plan digging for one purpose, such as highway construction, broadband infrastructure installation and maintenance should also take place with that same dig. In other words, "dig once."

The Federal Highway Administration has indicated that "ninety percent of the cost of deploying broadband is when the work requires significant excavation of the roadway."[20] Dig once policies are important to broadband deployment because coordinating highway construction projects with the installation of broadband infrastructure could reduce costs incurred by repeated excavation. Dig once also reduces deployment time by eliminating the need to acquire duplicative reviews and permits for work done at the same location.

It is important, however, that dig once policies do not disadvantage providers with facilities already placed in the right-of-way adjacent to such highway construction projects. Providers with facilities already in the right-of-way should not be required to incur new costs to accommodate the installation of new facilities installed as part of a dig once construction project. In addition, such existing providers

[19] Accelerating Broadband Infrastructure Deployment Exec. Order No. 13616 77 Fed. Reg. 36903 (Jun. 14 2012) available at https://www.whitehouse.gov/the-press-office/2012/06/14/executive-order-accelerating-broadband-infrastructure-deployment.

[20] *See* Federal Highway Administration EXECUTIVE ORDER: ACCELERATING BROADBAND INFRASTRUCTURE DEPLOYMENT Background Paper and Work Plan Strategy Dig Once Section (Dec. 2012) available at https://www.fhwa.dot.gov/policy/otps/workplan cfm#dig (last visited Jan. 10, 2018).

should be able to avail themselves voluntarily of any rates, terms, or conditions made available to providers granted access to the right-of-way as part of a dig once project.

Since being required to do so in 2012, some federal agencies and state and local governments have enacted dig once policies or coordination strategies.[21] In 2015, members of Congress introduced dig once legislation, but they have not been enacted. Dig once is included in the MOBILE NOW Act, which passed the Senate by unanimous consent on Aug. 3, 2017 but has not been enacted. Despite movement on the issue, dig once policies have not been widely adopted. The Working Group encourages the Department of Transportation and other relevant agencies to continue their work to adopt dig once policies and to provide guidance to states and encourage their implementation of a dig once policy.

[21] *Id.*

4. Cumbersome historic and environmental review processes

The Working Group recommends that environmental assessments be harmonized across agencies to reduce confusion and redundancy. Environmental impact studies should be valid for a reasonable amount of time so they do not have to be redone. Where surveys or other studies are completed as part of the environmental review, those findings should be available to federal agencies and applicants to use during the reasonable time period.

All federal agencies should ease permitting requirements in previously disturbed areas ~~that have previously undergone environmental review.~~ All federal agencies should streamline their National Historic Preservation Act (NHPA) historic preservation review process by finalizing a list of broadband activities exempted from Section 106 consultation. The Working Group recommends that the FCC expand E106 & FCC Tower Construction Notification System program. All federal agencies should also finalize NEPA categorical exclusions that will exempt broadband projects from Environmental Assessments for sites that involve, for example, cell site compounds, aerial cable, and previously disturbed grounds.

The Advisory Council on Historic Preservation (ACHP) should clarify applicability of its new *Program Comment for Communications Projects on Federal Lands and Property*[22] to all federal agencies, revising the introduction, "Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope." To avoid confusion, "may elect" should be struck and ACHP should affirmatively require the use of the Program Comment by all federal agencies. The Working Group recommends the following additional changes to the Program Comment:

1. The Program Comment should be revised to apply to all Federal Land Managing Agencies (LMAs) and Federal Property Managing Agencies (PMAs). As currently drafted, elective utilization of the Program Comment process does not ensure the expedited and efficient siting procedures necessary to better serve the exponentially growing data demands on networks and the underlying infrastructure.
2. Agencies should be required to process and respond to each application within a specified time period—no more than 60 days.
3. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Applicants should have a right to cure their application by making corrections based on written grounds for rejection received.

[22] ACHP Program Comment.

4. Throughout the application process, Federal LMAs and PMAs should be required to provide application status updates at the request of applicants. Greater transparency during and after the application process has completed will improve the application submission process and will provide documentation for applicants to use with other historic preservation review processes such as the FCC's NEPA review process
5. Applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved. These timeframes are similar timeframes to what the FCC established for municipalities in land use approvals to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years with no action taken by the federal agency, which is contrary to the national policy promoting broadband throughout all federal properties.

Lastly, the Working Group recommends a thorough evaluation of the August 15, 2017 Executive Order 13807 *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*. The Order incorporates "broadband internet" projects in its efforts to "ensure that the Federal environmental review and permitting process for infrastructure projects is coordinated, predictable, and transparent." Agencies should be held accountable to implement the order's directives within a specified time period.[23]

5. *Lease and renewal terms that do not incentivize investment*

The Working Group recommends that executive agencies utilize easements or leases with 30 or more-year terms with expectancy of renewal for wireline or wireless siting requests. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit telecommunications facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireline or wireless installations, but that easements are an acceptable legal transaction for the placement of wireline and wireless facilities on federal property. Agencies should also be notified that to minimize the cost— on both the agency and the provider—of future siting applications, and given the extensive capital investment of long-lived assets required for the installation of wireline and wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms at least 30 years long and with renewal expectancy.

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Ideally, lease terms should extend to the useful life of the assets. The Working Group urges the standardization of lease terms within each type of technology. To avoid holdover leases, agencies should begin the lease renewal process five years in advance of expiration of the lease. Site agreements often expire without a clear path to renewal. Agency rights to terminate leases should be limited to reasons of national security.

[23] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects* (Dep't of Interior Aug. 31, 2017) (DOI began its Executive Order implementation), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

6. *Unclear points of contact for local, state, and federal leads for agencies*

The Working Group recommends that GSA, or other designated agency, should require each agency to provide a contact person for handling applications related to each property. Under GSA's Common Form Application Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process. This process should also apply to wireline broadband installations.

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Each federal agency should designate a state contact that covers each state to ensure consistency across field offices, forests, and national parks. Additionally, each federal agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information. One government entity, such as NTIA, should consistently compile this information on one online portal.[24]

The Working Group encourages each federal agency to implement an escalation or appeal process when broadband facility requests are delayed or denied. Furthermore, each agency should have an ombudsman to resolve permitting problems. Formalizing this process will ensure more consistent treatment of applications.

7. *Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history*

As discussed above, agencies should employ a ~~a~~-single online permitting application tracking mechanism. ~~GSA, or other designated~~Each federal agency~~,~~ should ~~require each executive agency~~be required to create a single online application tracking mechanism so that the agenc(ies) and applicants can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible, along with contact information, for a specific application. The Working Group encourages the FCC and other federal agencies to review the Administration's

[24] *See* National Telecommunications Information Administration (NTIA), Broadband Interagency Working Group, Broadband Opportunity Council Agencies' Progress Report (Dep't of Commerce Jan. 2017) (NTIA's BroadbandUSA website will house a one-stop portal), available at https://www.ntia.doc.gov/files/ntia/publications/broadband_opportunity_council_agencies_progress_report_jan2017.pdf.

Federal Infrastructure Permitting Dashboard,[25] which includes infrastructure projects identified as Covered Projects under Title 41 of the Fixing America's Surface Transportation (FAST) Act, Department of Transportation projects, and other tracked projects. This dashboard is not currently used to track broadband infrastructure projects across federal agencies; however, agencies may find it efficient to track their projects in this manner.

All agencies should provide the applicant with information regarding the standard processing time for permitting at the agency (within the established shot clock) so that providers can schedule construction projects in a timely manner.

The Working Group also urges the FCC or Congress to set executive-level quantifiable goals for broadband deployments such as collecting aggregate, industry-level commitment counts to deploy broadband sites on federal lands, and agencies should publish performance against the goals. Each agency should have an identified direct-reporting lead responsible for implementation by achieving actual deployments. Federal agencies should focus on deployment results, beyond intermediary process changes. Each agency should also create deployment transparency mechanism such as a monthly web post of the number of contracts signed, new deployments, and new carriers deployed on existing sites. ~~Every quarter.~~ And as now required by the Rural Broadband Streamlining Executive Order, every quarter federal agencies should transparently report the number of permitting applications they have processed.

~~All federal Agencies should provide a~~Such regular ~~report~~reporting will get our nation closer to ~~identify~~identifying coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as "telecom areas" would also be helpful. These are areas where the necessary studies and reviews have been successfully completed and where siting may, therefore, be easier. Agencies can call for public input in identifying these areas. Such reporting will enable agencies to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost and afford a platform to discuss solutions to these challenge

8. Lack of re-evaluation of processes and fees as technologies evolve

The Working Group recommends that application forms be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way. Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA Common Form Application for new broadband infrastructure requests, *and* for amendments to existing broadband infrastructure.

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[25] *See* Federal Infrastructure Permitting Dashboard, available at https://www.permits.performance.gov/projects.

The Working Group also urges federal agencies to incorporate small cells, distributed antenna systems (DAS), and indoor coverage into their streamlining processes. There is often a lag between the introduction or increased use of a technology and when federal agencies adopt procedures to process the siting requests. Federal agencies should create a system for how to evaluate new technologies and determine how they should be reviewed for permitting.

9. DoD siting process costly and time-consuming

The Working Group found that siting broadband facilities on Department of Defense (DoD) property presents unique challenges. ~~Nevertheless~~Consistent with all necessary measures to protect national security, DoD agencies should streamline deployment as indicated in the above recommendations but in keeping with national security interests.

The DoD should reexamine rules and policies regarding the permitting and deployment of broadband within bases and on all DoD real estate, including separate authorizations required for services offered over the same facilities. In some cases, cable operators have been prohibited from deploying Wi-Fi facilities for use by Americans living on military bases.

The Department of the Navy (DoN) is a good example of a DoD agency that completed a thorough example of its permitting processes and executed a path towards streamlining broadband deployment on its property. Industry successfully collaborated with the DoN for two years on the development and release of its memorandum titled "Streamlined Process for Commercial Broadband Deployment," (Navy Memo) which was signed by the Deputy Under Secretary of the Navy (DUSN) for Management on June 30, 2016.[26] The new guidelines "set a goal for DON installation to meet or exceed national averages for broadband coverage and capacity," according to the official memorandum. According to the Wireless Infrastructure Association, which coordinated industry participation, "the new wireless facility siting procedures cut down a project coordination and siting deployment process that could take up to five or more years to complete to less than one year."[27]

The DoN is now evaluating an update to its memo to incorporate small cells, DAS, and indoor deployments into its streamlining processes. Other DoD agencies should evaluate the effectiveness of the Navy Memo process and implementation as they develop their own broadband infrastructure siting review process.

The Working Group urges DoD agencies to employ shorter and parallel process steps, particularly making JSC review concurrent with the RFP process. Agencies should accelerate the JSC pre-work, application-to-bid mechanism to less than 30 days. Agencies should also streamline the RFP process by moving it online, reducing processing to 30 days, and allowing multiple carriers "to win" per each RFP.

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[26] Dep't of the Navy, Deputy Under Secretary of the Navy Memo, *Streamlined Process for Commercial Broadband Deployment* (Jun. 30, 2016), available at http://www.doncio.navy.mil/ContentView.aspx?ID=8008.

[27] Wireless Infrastructure Association, *Wireless Industry Applauds U.S. Navy's Push to Streamline Wireless Siting Process on Federal Bases* (Jul. 8, 2016), available at https://wia.org/wireless-industry-applauds-u-s-navys-push-streamline-wireless-siting-process-federal-bases/.

Military agencies should also streamline their RF spectrum clearance processes by eliminating duplicate spectrum interference reviews where one has already been completed for a similar instillation. RF clearance should be valid for an extended period of time. Additionally, agencies should incorporate all possible spectrum bands for operation into the initial RF study so that providers do not have to repeatedly conduct studies for new deployments or new carriers being added to the neutral host.

10. Siting barriers caused by federal funding clauses

The Working Group found that some states impose restrictions on broadband infrastructure deployment in local parks developed with federal funds. For example, Virginia has a restriction that:

> property acquired or developed with LWCF [Land & Water Conservation Fund Act of 1965] assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired and/or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act.[28]

Site reviewers in Virginia are interpreting this law as prohibiting wireless infrastructure deployment, labeling such deployment as a prohibited commercial endeavor. It is not likely that the provision of broadband services is the type of activity the Land and Water Conservation Fund Act of 1965 was trying to protect against. Therefore, the Working Group recommends that land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services. All agencies, states, and localities should be advised that deploying broadband is not within the meaning of prohibiting commercial use of land developments funded by federal grants.

[28] State of Virginia, Conversion of Use General Information, available at http://www.dcr.virginia.gov/recreational-planning/document/lwcf-conversion.pdf.

Federal Siting Solutions

EXECUTIVE SUMMARY

Summary of the Issues

1. Varying/unpredictable fees and rates
2. Lengthy application review times
3. Unharmonized application forms & Unpredictable processes across agencies
4. Cumbersome historic and environmental review processes including environmental studies and GIS studies
5. Lease and renewal terms that do not incentivize investment
6. Unclear points of contact for local, state, and federal leads for agencies
7. Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history
8. Lack of re-evaluation of processes and fees as technologies evolve
9. DoD Siting Process (including real estate and RF spectrum clearance) costly and time-consuming
10. Siting Barriers Caused by Federal Funding Clauses

Summary of the Solutions

1. Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes
2. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request
3. Require all agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.
4. Harmonize environmental assessments across agencies, further streamline NEPA and NHPA exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.
5. All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment
6. Every project should have a single, clear point of contact for application review and follow-up
7. There should be a single, easily accessible online-tracking mechanism for the permitting process. All Agencies should regularly report on permit status, the number of permitting applications they have processed and on coverage gaps.
8. The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.
9. Department of Defense agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their deployment on bases permitting practices. DoD agencies should streamline their spectrum clearance processes.
10. All federal land grant provisions precluding broadband deployment should be eliminated

Commented [1]: Insert prioritiza ion of broadband permitting language.

Recommended Method for FCC Involvement

1. Varying/unpredictable fees and rates
    a. Administrative fees should be set at a national level.
    b. All federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to industry to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.
    c. Federal agencies should receive more of their revenue, which would enable them to hire more staff to focus on their communication site programs to improve their response times (requires change in law/appropriations) by Congress).
    d. Requirements for a security deposit are misplaced prior to the lease or easement negotiation stage. While an application fee is reasonably required with the proposed form, it would be highly unusual and burdensome to require a security deposit prior to negotiation and execution of a lease or easement. As a practice, security deposits are generally collected from credit poor, unknown tenants, in contrast to the broadband providers who have decades of experience across the country with federal civilian and military sites. Therefore, there should be no need for security deposits. Artificially increasing the cost of deploying broadband infrastructure is contrary to the national policy of accelerating broadband availability.
        i. However, should a deposit be required, deposits should be refunded if an agreement is not executed due to no fault of applicant.
    e. Require annual CPI or fixed percent increases, fair market appraisal update every 10 years instead of every 5 years, and eliminate ALL Revenue Share requirements for subsequent collocators.
    f. Where a military installation is the sole or primary beneficiary of the infrastructure, allow for rent elimination or in-kind rent reduction.
    g. Ensure that broadband service is treated similar to other utilities deployed on federal lands.
    h. There should be reasonable revenue share for broadband infrastructure siting between agency headquarters and field offices. Field offices gaining revenue from the applications they process may provide incentives to streamline the application process and review more applications.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

2. Lengthy application review times
    a. Congress should mandate that all federal agencies prioritize broadband permitting and implement funding and application review changes that reflect the prioritization of broadband deployment.

Commented [2]: (note from call) Have one central agency to conduct all federal broadband permitting. Agency tasked based on resources (to handle real estate/facility issues--not just spectrum). WIA to draft language.

Include throughout solutions document how this approach would resolve the issues ar iculated.

Commented [3]: WIA note: would have to go to Congress to clear up the statutory authority each agency has. Statute would have to grant a specific agency/department/office authority to review/execute all broadband infrastructure applications

Commented [4]: insert language explaining why broadband permitting should be prioritized. public safety, healthcare, etc

b. Timely responses to applications are mandatory. Consistent with GSA Bulletin FMR 2007-B2, agencies should be required to process and respond to each application within a specified time period – no more than 60 days. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The executive agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. The agency should identify the specific point for incompleteness. The applicant should submit the revised application within 60 days of being notified of the error. If an application is rejected, the decision should list in writing all factual, policy and legal grounds for rejection as well as a contact person for escalation.
c. Applications should be "deemed approved" upon passage of time. Expanding broadband is a critical national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency-specific statutory authority to provide a deemed approved remedy). These timeframes are the same intervals that the FCC established for municipalities in land use approvals in order to expedite wireline and wireless broadband infrastructure deployment. Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting wireline and wireless broadband throughout all federal properties.
d.
e. Federal agencies should be able to use the applicant's diligence to shorten approval times and reduce costs. For instance, rather than perform the review itself, a federal agency could use recent site inspection photos to supplement its own inspection process. The agency could also use NEPAs and other regulatory studies completed recently by the applicant. (This idea was well received by the US Forest Service. They had a massive manpower shortage and were very receptive to this idea as a way to speed up the application review process.) There should be a formalized process for agencies to utilize past NEPA review materials regardless of which agency conducted the review. There should be formalized guidance on scenarios in which a project is likely to implicate multiple agencies, and the lead agency reviewing the application should highlight and coordinate with the other agencies that should be involved.
f. Document revision requests to correct obvious clerical errors should be automatically accepted. A common example would be correcting an incorrect/incomplete entity name in the preamble, body and signature block.
g. Document preparers should have flexibility in cases where applicants are unable to comply (where reasonable) with specific provisions. The most common example involves the insurance provisions. Often the federal insurance requirements are not commercially available but the agencies are unable to revise the requirements. One example is the government's requirement for "per occurrence" coverage amounts in lieu of adequate coverage in the aggregate.

h. Priority should be given to site permits/agreements that are expired or soon to expire. Some of the offices process applications in the order they landed in their inbox.
i. Applications should be presumed consistent with each agency's mission and property use. Consistent with Section 704 of the Telecommunications Act, applications to place communications facilities should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and complete conflict with an agency's mission. The existence of other providers' wireline and/or wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its property. If the executive agency rejects an application because it is in direct conflict with the agency's mission or use of its property, the executive agency should provide in writing all factual bases proving that the application is in direct and complete conflict with the agency's mission or use of its property. Those factual bases should be provided to the provider in writing, concurrently with the rejection.
j. Having pre-approved installation types with the ability to make minor pre-approved changes would allow less burden on the agency for approval and faster installation for the service provider. Pre-approved installation types could vary by region, agency, etc. These could be listed on the agencies website or documentation. This would also allow the agency to promote certain types of installations they prefer by making the approval and permitting process streamlined.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

3. Unharmonized application forms & Unpredictable processes across agencies

Unharmonized application forms

a. There should be one required, standardized application form for agencies to use with elements that apply to specific agencies.
b. Agencies should work with industry for standard templates (i.e. some districts require compliance with 13658 Federal Minimum Wage Requirement while others say it does not apply).
c. Agencies and industry should evaluate effectiveness of GSA Common Application
d. GSA should revise its Wireless Telecommunications Company Application as follows:

o *GSA should require each agency to provide a contact person for handling applications related to each property.* Under the Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application . . ." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process.

o A single *online tracking mechanism should be utilized.* GSA, or other designated federal agency, should create a single online application tracking mechanism so that the agenc(ies) and applicant can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible,

along with contact information, for a specific application. As the government builds this single online tracking mechanism, each agency should implement its own efficient, easily accessible application tracking system.

- *RFI certification report requirement should be clarified.* A Radio Frequency Identification ("RFI") certification report is listed as a potential document that may be required under the Document Check List. This section should be clarified to state that RFI reports are not required outside of military installations. Such reports have not been necessary over decades of industry experience, and there is no need to add an additional report that has not been required previously.

- *The application form should not implicate a JSC review for commercial providers of unlicensed wireless services*. An FCC license is typically not required to operate unlicensed wireless services for operations that meet certain FCC requirements for unlicensed use of spectrum, such as non-interference and power limits. Therefore, unlicensed use that meets this standard should not be subjected to additional spectrum reviews, such as the Joint Spectrum Center ("JSC") review. The Defense Information Systems Agency operates JSC as a required process by GSA and the Department of Defense to identify and mitigate electromagnetic interference to base electronics and spectrum-dependent systems before approving a commercial wireless system installation. The actions GSA takes here in proposing a common application form for siting wireless facilities on federal land or buildings should not trigger a JSC review for commercial providers of unlicensed wireless services.

- *"Federal, state and local statutory recording requirements" should be clarified or deleted.* This section should be clarified to either describe exactly what is being required, or it should be omitted. Recording requirements may be a protection or benefit to the applicant. However, to the extent this type of document has not been required previously, it should not impose a new requirement on providers.

- For the reasons discussed in the fees and rates section above, all *requirements for a security deposit should be eliminated at the application stage.*

- *Requirements for a performance bond should be eliminated.* The requirement for a performance bond has not been a common practice in federal wireline or wireless siting, and adding this new requirement at the application stage is both unnecessary and contrary to the policy objective of removing obstacles to accelerated broadband investment and availability. This is especially true when a national wireless provider is the applicant, and there has been no showing that a performance bond is necessary for these providers or any others at the application stage.

- *Certain information requested is too broad.* The requested fields of "Name of Officers, Members, or Owners of Concern, Partnership, etc.," "Federal EIN / State Tax ID," and "D&B Rating," lie outside of normal business purposes. The requested "FCC License" information field would not apply to certain applicants, namely, neutral-host wireless providers. The "Person Authorized to Sign Contracts" information is too detailed; there is no reason to provide detailed contact information for someone who will not be handling the day-to-day issues at the site. Moreover, most companies have multiple potential signing parties, but this form only allows for one. Finally, more feedback on what nos. 1 and 7 are meant to reference on the "Potential Document Check List" would be helpful to applicants.

o *GSA should clarify the title of the proposed common form application.* In its request for public comments, GSA refers to the proposed application as the "Wireless Telecommunications Industry Application"; however, the application form is titled "Wireless Telecommunications Company Application." For clarity and consistency, GSA should clarify the title of the common form application.

o *Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right of way.* Given the continually changing technology and rapid growth of broadband, it is common practice that wireline or wireless broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new wireline or wireless infrastructure requests, and for amendments to existing wireline or wireless infrastructure.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

Unpredictable processes across agencies

e. Siting processes should be harmonized across agencies to the extent that they can be.
    i. Consistency is needed in how files are processed by the various offices – some offices are much more effective than others.
f. create a uniform process within each region and state of an agency
g. There should be a standardized approach to mapping out what agencies will be involved with a project early on in the application process. There should be a process to ensure that the information is getting to the federal agencies involved. This can be executed through the common form application if there is a field on the application to check a box for potentially implicated agencies.
h. GSA should mandate standard template contract(s) that applies across all federal agencies. (Contract(s) that are executable in 30-60 days.)
i. Agencies should measure the number of contract signings, for new sites and new carriers on existing sites.
j. There should be incentives for approving applications with partial fee retention, e.g. agency retain initial rents.
k. All federal agencies with land management authority should update/harmonize their rights-of-way rules.
    i. For example, DOI agencies should update their rights-of-way rules to align to the Bureau of Indian Affairs updated Rights-of-Way rules with respect to timelines, effective in 2016.
l. Applicants may opt in to the rates, terms, and conditions of other providers located at the federal property. Once a federal property is opened for any telecommunications provider, then the property should be open to any and all other providers, without delay, on a non-discriminatory basis. For example, if one provider's equipment is located on a water tank, then a subsequent provider should be permitted to collocate on that same water tank in a

substantially similar, but not necessarily identical fashion, opting into the rates, terms and conditions of the initial provider's lease or easement or other legal arrangement. This procedure is consistent with, and may be required by, the anti-discrimination requirement in Section 704(c) of the Telecommunications Act.

m. The FCC should continue in its advisory capacity to the Broadband Interagency Working Group (formerly the Broadband Opportunity Council) to provide broadband infrastructure policy expertise and ensure that these recommendations are implemented effectively.
n. Certain federal land management agencies follow regulations that require infrastructure providers to hold FCC licenses or utilize agreements with the same requirement. These provisions are holdovers from when licensed carriers constructed their own infrastructure. Access to federal lands for wireless infrastructure development should be available to a tower owners/operators/managers, etc., where applicable.
o. Federal agencies should be directed to recognize tower operator sublease/management interests (e.g., tower operators lease or manage a significant number of towers that are still owned by the carriers).
p. Document preparers should have flexibility in cases where applicants are unable to comply (where reasonable) with specific provisions. The most common example involves the insurance provisions. Often the federal insurance requirements are not commercially available but the agencies are unable to revise the requirements. One example is the government's requirement for "per occurrence" coverage amounts in lieu of adequate coverage in the aggregate.
q. Remove overly burdensome notice requirements for carriers/operators to visit the site. Obvious exceptions for security reasons aside, infrastructure providers need to be able to access the sites quickly, especially in the case of emergencies.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

4. Cumbersome historic and environmental review processes including environmental studies and GIS studies
    a. Environmental impact studies should be good for a certain amount of time so they do not have to be redone- where surveys or other studies are completed as part of the environmental review, those should be available to federal agencies and applicants to use during that time period.
    b. Environmental assessments should be harmonized across agencies
    c. All federal agencies should ease permitting requirements in previously disturbed areas that have previously undergone environmental review.
    d. All federal agencies should streamline (NHPA) historic preservation review process by finalizing list of broadband activities exempted from Section 106 consultation. Expand E106 & FCC TCNS program.
    e. All federal agencies should finalize (NEPA) Categorical Exclusions that will exempt broadband projects from Environmental Assessments. E.g. Cell site compounds, aerial cable, and previously disturbed grounds.

f. ACHP should clarify applicability of its new Program Comment to all federal agencies, revising the introduction, "Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope." To avoid confusion, "may elect" should be struck and ACHP should affirmatively require the use of the Program Comment.
    i. The Program Comment should also be revised to apply to all Federal LMAs and PMAs. As currently drafted, elective utilization of the Program Comment process does not ensure the expedited and efficient siting procedures necessary to better serve the exponentially growing data demands on networks and the underlying infrastructure.
    ii. Agencies should be required to process and respond to each application within a specified time period—no more than 60 days.
    iii. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Applicants should have a right to cure their application by making corrections based on written grounds for rejection received.
    iv. Throughout the application process, Federal LMAs and PMAs should be required to provide application status updates at the request of applicants. Greater transparency during and after the application process has completed will improve the application submission process and will provide documentation for applicants to use with other historic preservation review processes such as the FCC's NEPA review process
    v. Applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved. These timeframes are similar timeframes to what the FCC established for municipalities in land use approvals to expedite wireline or wireless broadband infrastructure deployment. Without this safeguard, applications may languish for years with no action taken by the federal agency, which is contrary to the national policy promoting broadband throughout all federal properties.
g. Evaluate President Trump Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure. What are the authorities associated with the order's directives? How can agencies implement the order? (See DOI Secretarial Order 3355 Streamlining NEPA and Implementation of EO 13807)

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

5. Lease and renewal terms that do not incentivize investment
    a. Executive agencies should utilize easements or leases with 30 or more-year terms with expectancy of renewal for wireline or wireless siting requests. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit telecommunications facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireline or wireless installations, but that easements are an acceptable legal transaction for the placement of wireline and wireless facilities on federal property. Agencies should be notified that to minimize the cost— on both the agency and the provider—of future applications, and given the extensive capital investment of long-lived assets required for the installation of wireline and wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms at least 30 years long.
        i. Lease terms should extend to the useful life of the assets.
        ii. Lease terms within each type of technology should be standardized.
    b. Agencies should begin the lease renewal process five years in advance of expiration. Site agreements often expire without a clear path to renewal.
    c. Agency termination rights should be limited to reasons of national security.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

6. Unclear points of contact for local, state, and federal leads for agencies
    a. GSA should require each agency to provide a contact person for handling applications related to each property. Under the Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application . . ." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process. This process would also apply to wireline broadband installations.
    b. Each federal agency should designate a state contact that covers each state to ensure consistency across field offices, forests, and national parks to ensure consistency across field offices, forests, national parks.
    c. Each federal agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information. One government entity (such as NTIA) should consistently compile this information on one online portal. (According to the Broadband Opportunity Council January 2017 report, NTIA's BroadbandUSA website will house a one-stop portal)
    d. Each federal agency should implement an escalation or appeal process when broadband facility requests are delayed or denied. Assure more consistent treatment; rejections are often before formal application.
    e. Each agency should have an ombudsman to resolve problems.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

7. Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history
    a. As discussed above, a single online tracking mechanisms should be utilized. GSA, or other designated federal agency, should require each executive agency to create a single online application tracking mechanism so that the agenc(ies) and applicants can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible, along with contact information, for a specific application. As the government builds this single online tracking mechanism, each agency should implement its own efficient, easily accessible application tracking system.
    b. All agencies should provide the applicant with information regarding the standard processing time for permitting at the agency (within the established shot clock) so that providers can schedule construction projects in a timely manner.
    c. FCC/Congress should set executive-level quantifiable goals for broadband deployments.
        i. By 2018 Q1, collect aggregate, industry-level commitment counts to deploy broadband sites on federal lands and map to Departments; publish performance against the goals.
        ii. Identify direct-reporting lead in each agency responsible for implementation by achieving actual deployments. Focus on deployment results, beyond intermediary process changes.
        iii. Create deployment transparency. Web post monthly contracts signed, new deployments, and new carriers deployed on existing sites.
    d. Every quarter, federal agencies should transparently report the number of permitting applications they have processed.
    e. All federal Agencies should provide a regular report to identify coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as "telecom areas" would also be helpful. Agencies can call for public input in identifying these areas. Such reporting will enable agencies to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost and afford a platform to discuss solutions to these challenge

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

8. Lack of re-evaluation of processes and fees as technologies evolve
    a. Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right of way. Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and

Commented [5]: Same comment as above. One tracking system may be more helpful than one for each agency.

Commented [6]: (from call): change as men ioned above

Commented [7]: WIA Note: acknowledge that different agencies have different steps. May be more practical to provide guidance on standardized reporting. May end up taking too long to coordinate all agencies when we could get a few agencies to implement this quickly internally. Could do it in stages with agencies implementing on their own, then combining down the line. O her questions: who will fund this project? Who will house it? If one dashboard, there should be a deadline for putting this type of mechanism in place.

managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new broadband infrastructure requests, and for amendments to existing broadband infrastructure.

b. Incorporate Small Cells and DAS and indoor coverage into processes.
c. Create system for how to evaluate new technologies and determine how they should be reviewed for siting

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

9. DoD Siting Process (including real estate and RF spectrum clearance) costly and time-consuming
    a. Department of Defense agencies should streamline deployment as indicated in the above recommendations but in keeping with national security interests.
    b. The DoD should reexamine rules and policies regarding the permitting and deployment of broadband within bases, including separate authorizations required for services offered over the same facilities. In some cases, cable operators have been prohibited from deploying Wi-Fi facilities for use by Americans living on military bases. (Agencies can build on Department of Navy Streamlined Process for Commercial Broadband Deployment memorandum)
    c. Employ shorter and parallel process steps, particularly making JSC review concurrent with RFP process. Accelerate JSC pre-work, application-to-bid mechanism to less than 30 days.
        i. Streamline RFP process: on line, 30 days, allow multiple carriers "to win" per each RFP.
    d. Incorporate Small Cells and DAS and indoor coverage into DoD processes.
    e. Military agencies should streamline their RF spectrum clearance processes by not requiring duplicate spectrum interference reviews where one has already been completed for a similar instillation.
    f. RF clearance should be good for an extended period of time.
    g. Rope all of the possible spectrum bands for operation into the initial RF study so that providers do not have to keep coming back to do studies for new deployments or new carriers being added to the neutral host.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

10. Siting Barriers Caused by Federal Funding Clauses
    a. Land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services.

Solution Vehicle [*i.e.-Congressional action, Administration, FCC, Federal Agency(ies)]

Solution Implementation

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BROADBAND DEPLOYMENT ADVISORY COMMITTEE: STREAMLINING FEDERAL SITING WORKING GROUP

REPORT, NOV. 9, 2017

Contents

SUMMARY OF CHALLENGES AND SOLUTIONS

1. *Challenge*: Varying and unpredictable fees and rates.
   Solution: Standardize and publish fee schedules and utilize revenue in a way that promotes expediting federal siting processes.

2. *Challenge*: Lengthy application review times.
   Solution: Require all federal landholding or managing agencies to prioritize broadband permitting. Implement a 60-day shot clock for application review with a deemed approved remedy and a 10-day shot clock for notification of additional materials request.

3. *Challenge*: Unharmonized application forms and unpredictable processes across agencies.
   Solution: Require all federal landholding or managing agencies to use one standardized application form. Harmonize permitting processes across agencies to extent feasible and ensure the process is uniformly applied across regional and state offices. Recognize and accept existing completed studies in previously disturbed areas.

4. *Challenge*: Cumbersome historic and environmental review processes including environmental studies and Geographic Information System studies.
   Solution: Harmonize environmental assessments across federal landholding or managing agencies, further streamline National Environmental Protection Act and National Historic Preservation Act exclusions, and eliminate duplicative environmental studies. Make current environmental and historic review streamlining mechanisms mandatory for all agencies.

5. *Challenge*: Lease and renewal terms that do not incentivize investment.
   Solution: All leases and easements should have 30 or more-year terms with expectancy of renewal to better incentivize investment.

6. *Challenge*: Unclear points of contact for local, state, and federal leads for agencies.
   Solution: Every project should have a single, clear point of contact for application review and follow-up.

7. *Challenge*: Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history.
   Solution: There should be a single, easily accessible online-tracking mechanism at each federal agency for the permitting process. All agencies should regularly report on permit status, the number of permitting applications they have processed, and on coverage gaps.

8. *Challenge*: Lack of re-evaluation of processes and fees as technologies evolve.

Solution: The common application form should accommodate changes to existing installations and applicable leases and easements. Agencies should accommodate and incorporate new broadband infrastructure technologies into their review processes.

9. *Challenge*: Department of Defense Siting Process is costly and time-consuming.
   Solution: Department of Defense (DoD) agencies should incorporate streamlining efforts utilized and recommended for other federal agencies and examine their military base broadband deployment permitting practices. DoD agencies should streamline their spectrum clearance processes.

10. *Challenge*: Siting barriers caused by federal funding clauses.
    Solution: All federal land grant provisions directly or indirectly precluding broadband deployment should be eliminated.

INTRODUCTION

The Federal Communications Commission (FCC or Commission) Broadband Deployment Advisory Committee, Streamlining Federal Siting Working Group (Working Group) applauds the Commission's interests in removing regulatory barriers to broadband deployment on federal lands and property, which amounts to nearly 30 percent of the U.S. landmass. As Chairman Pai correctly noted, "[broadband is] becoming the 21st-century gateway to jobs, health care, education, information, and economic development everywhere, from the smallest town to the largest city."[1] Developing recommendations to improve the process of siting on federal lands and federally managed properties, as this Working Group has been tasked,[2] will incentivize investment in the deployment of next-generation broadband that will enhance public safety and enable smart solutions in communities across the country.

The Working Group recommends that the FCC evaluate the solutions herein presented to determine which government entity(ies) should effectuate and implement the proposed action. The Working Group encourages the FCC to continue in its advisory capacity to the Broadband Interagency Working Group (formerly the Broadband Opportunity Council) to provide broadband infrastructure policy expertise and ensure that the recommendations herein contained are implemented effectively.

Through its deliberations, the Working Group found that the fundamental concerns regarding the streamlining of federal siting are 1.) predictability and complexity of the application process and accompanying requirements and 2.) the application review time.

[1] *Chairman Pai Forms Broadband Deployment Advisory Committee*, FCC News Release (Jan. 31, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-343242A1.pdf.

[2] By the direction of FCC staff, the Streamlining Federal Siting Working Group was instructed not to include Tribal lands in the Working Group's deliberations and recommendations.

RECOMMENDED SOLUTIONS TO ADDRESS FEDERAL SITING CHALLENGES

1. Varying and unpredictable fees and rates

The Working Group recommends that all administrative fees associated with federal siting applications should be set at a national level. Additionally, all federal agencies should publish a public fee schedule outlining the costs associated with granting property interests to providers to deploy broadband communications facilities on federal lands. Such guidance would give broadband providers greater predictability and knowledge of the cost of a potential build. Further, the publication of an agency fee schedule would remove months of time spent by both sides negotiating what could otherwise be a standard rate that incorporates an escalation clause accounting for inflation.

Security deposit requirements also vary and are unpredictable. Working Group members agree that requirements for a security deposit are misplaced prior to the lease or easement negotiation stage. While an application fee is reasonably required with the proposed form, it would be highly unusual and burdensome to require a security deposit prior to negotiation and execution of a lease or easement. As a practice, security deposits are generally collected from credit poor, unknown tenants, in contrast to the broadband providers who have decades of experience across the country with federal civilian and military sites. Therefore, there should be no need for security deposits. Artificially increasing the cost of deploying broadband infrastructure is contrary to the national policy of accelerating broadband availability. However, should a deposit be required, deposits should be refunded if an agreement is not executed due to no fault of applicant.

Additionally, the Working Group recommends that federal agencies utilize predictable measurers for rent increases such as annual Consumer Price Index or fixed percent increases. Fair market appraisal updates should be conducted every ten years instead of every five years. Also, an agency should not require a provider to share with the agency the revenue it obtains from subsequent collocators. Where a military installation is the sole or primary beneficiary of the infrastructure, agencies should allow for rent elimination or in-kind rent reduction.

Because many federal agencies express that staff constraints are a cause of delay in reviewing siting applications, the Working Group recommends that all federal agencies should receive more of the revenue they generate from broadband deployment. Agencies can use the revenue retained to hire more staff to focus on their communications site programs to improve response times and enable other efficiencies. Similarly, there should be reasonable revenue share for broadband infrastructure siting between agency headquarters and field offices. Field offices gaining revenue from the applications they process may provide incentives to streamline the application process and review more applications.

The Working Group discovered that not all equipment deployed on federal lands and property receive the same review scrutiny as broadband infrastructure. Agencies should ensure that broadband service is treated similarly to utilities deployed on federal lands, which typically receive faster approvals at lower costs.

2. Lengthy application review times

In keeping with the national goal of ensuring that "all people of the United State have access to broadband capability"[3] and whereas there is national agreement to eliminate barriers to broadband infrastructure deployment,[4] Congress should mandate that all federal agencies prioritize broadband permitting and implement funding and application review changes that reflect the prioritization of broadband deployment.

Infrastructure providers report delays in broadband permitting application processing across federal agencies. For example, InterConnect Towers (ICT), a wireless infrastructure provider that has been providing wireless coverage on federal land since 1998, provided data to the Working Group that ICT alone has 30 serialized Bureau of Land Management applications across California, Nevada, and Arizona that have been pending since 2013.[5]

The Department of Interior (DOI) is working to streamline its infrastructure project review processes as evidenced by the recent release of its Order "Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," which creates a target for each DOI bureau to "complete each Final [Environmental Impact Statements] for which it is the lead agency within 1 year from the issuance of a Notice of Intent (NOI) to prepare and EIS."[6] However, Working Group members agree that all federal landholding and managing agencies can do more to reduce review times in all of their broadband permitting steps.

Consequently, the Working Group urges the FCC to emphasize that timely responses to broadband siting applications are mandatory. Consistent with GSA Bulletin FMR 2007-B2, agencies should be required to process and respond to each application within a specified time period – no more than 60 days. The Working Group recommends that if requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The federal agency should notify the applicant within ten days of receipt of the application if the agency believes the application is not materially complete and it needs to be amended or modified. The agency should identify the specific form for incompleteness. The applicant should submit the revised application within 60 days of being notified of the error. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Sites sometimes go into holdover status after completion of a lease term but before renewal. Therefore, the Working

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[3] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009).
[4] *Broadband: Deploying America's 21st Century Infrastructure: Hearing Before the Subcomm. on the Communications and Technology of the H. Comm. on Energy and Commerce Committee*, 115th Cong. (Mar. 17, 2017) (Majority Subcomm Staff Memorandum to Members), available at http://docs.house.gov/meetings/IF/IF16/20170321/105740/HHRG-115-IF16-20170321-SD002-U1.pdf.
[5] *See*, Comments of Interconnect Towers LLC, DOI Docket No. 2017-0003-0191, at 2, 13 (filed October 10 2017) (noting "ICT alone, for example, has 30 serialized applications across California, Nevada, and Arizona that have been pending since 2013 (See Attachment A)").
[6] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*, Section 4.a.(2), (Dep't of Interior Aug. 31, 2017), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

Group also recommends that application review priority be given to site permit agreements that are expired or soon to expire.

Applications should be "deemed approved" upon passage of time. Expanding broadband is a very important national policy objective, and wireline and wireless broadband are dynamic technologies. Accordingly, applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved (subject to relevant agency-specific statutory authority to provide a deemed approved remedy). These timeframes are the same intervals that the FCC established for municipalities in land use approvals in order to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years at executive agencies, which is contrary to the national policy promoting wireline and wireless broadband throughout all federal properties.

Additionally, efficiencies would be gained if federal agencies are able to use the applicant's diligence to shorten approval times and reduce costs. For instance, rather than perform all portions of the application review itself, a federal agency could use recent site inspection photos to supplement its own inspection process. The reviewing agency could also use National Environmental Policy Act (NEPA) reviews and other regulatory studies completed recently by the applicant. There should be a formalized process for agencies to utilize past NEPA review materials regardless of which agency conducted the review.

Similarly, the Working Group recommends the development of formalized guidance on scenarios in which a project is likely to involve multiple agencies. The lead agency reviewing the application should highlight and coordinate with the other agencies that should be involved.

To further expedite the application process, agencies should automatically accept document revision requests to correct obvious clerical errors within an application. A common clerical error requiring application correction is an incorrect/incomplete entity name in the preamble, body, and/or signature block of an application. Additionally, document preparers should have flexibility in cases where applicants are reasonably unable to comply with specific provisions. The most common example involves the insurance provisions. Often, the federal insurance requirements are not commercially available, but the agencies are unable to revise the requirements for them in the application. Specifically, the government unrealistically requires "per occurrence" insurance coverage amounts in lieu of adequate coverage in the aggregate.

The Working Group also recommends that federal agencies presume broadband siting applications to be consistent with each agency's mission and property use. Consistent with Section 704 of the Telecommunications Act, applications to place communications facilities should be approved unless they are determined, on the basis of all relevant evidence, to be in direct and complete conflict with an agency's mission. The existence of other providers' wireline and/or wireless facilities at the application site provides a strong presumption that similar installations are consistent with the agency's mission and use of its property. If the executive agency rejects an application because it is in direct conflict with the agency's mission or use of its property, the executive agency should provide in writing all factual bases proving that the application is in direct and complete conflict with the agency's mission or use of its property. Those factual bases should be provided to the provider in writing, concurrently with the rejection.

Having pre-approved installation types with the ability to make minor pre-approved changes would lessen the burden on the agency for approval and will result in faster installation for the service provider. The Working Group encourages agencies to use Program Comments, Programmatic Environmental Assessments, or other vehicles to identify categories of facilities to apply streamlined approval.[7] Pre-approved installation types could vary based on the type of agency and the nature of the site region or specific location. These pre-approved installation types could be listed on the agencies website or documentation. This would also allow the agency to promote certain types of installations they prefer by making the approval and permitting process for those particular types of installations streamlined.

3. Unharmonized application forms and unpredictable processes across agencies

Unharmonized application forms

The Working Group recommends that there be one required, standardized siting permit application form for agencies to use with elements that apply to specific agencies. Agencies should work with industry to create standard templates to be applied across all agencies and within the different offices within each agency.

In 2015, the General Service Administration released its Wireless Telecommunications Company Application (GSA Common Form Application) to serve as a common application "for use by all land-holding executive agencies, streamlin[ing] the collection of business information that will be used by the Federal Government to negotiate specific antenna installation contracts and to obtain a point of contact for each applicant."[8] Being over two years out from release, agencies and industry should evaluate the effectiveness of the GSA Common Form Application. The Working Group proposes that GSA revise its Common Form Application as follows:

- *GSA should require each agency to provide a contact person for handling applications related to each property.* Under the Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process.

- *A single online tracking mechanism should be utilized.* GSA should require documentation of an online application tracking mechanism for each agency so that the agenc(ies) and applicant can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress

[7] *See* Advisory Council on Historic Preservation (ACHP), Program Comment for Communications Projects on Federal Lands and Property (May 8, 2017), available at http://www.achp.gov/docs/broadband-program-comment.pdf (ACHP Program Comment).

[8] General Service Administration, Wireless Telecommunications Company Application (current revision Sep. 2015), available at https://www.gsa.gov/forms-library/wireless-telecommunications-company-application.

and status. The tracking mechanism will identify the appropriate offices responsible for each broadband siting application, along with point of contact information.

o *RFI certification report requirement should be clarified.* A Radio Frequency Identification (RFI) certification report is listed as a potential document that may be required under the common application Document Check List. This section should be clarified to state that RFI reports are not required outside of military installations. Such reports have not been necessary over decades of industry experience, and there is no need to add an additional report that has not been required previously.

o *The application form should not implicate a JSC review for commercial providers of unlicensed wireless services.* An FCC license is typically not required to operate unlicensed wireless services for operations that meet certain FCC requirements for unlicensed use of spectrum, such as non-interference and power limits. Therefore, unlicensed use that meets this standard should not be subjected to additional spectrum reviews, such as the Joint Spectrum Center (JSC) review. The Defense Information Systems Agency operates JSC as a required process by GSA and the Department of Defense to identify and mitigate electromagnetic interference to base electronics and spectrum-dependent systems before approving a commercial wireless system installation. The actions GSA takes with the common application in proposing a common application form for siting wireless facilities on federal land or buildings should not trigger a JSC review for commercial providers of unlicensed wireless services.

o *"Federal, state and local statutory recording requirements" should be clarified or deleted.* This section should be clarified to either describe exactly what is being required, or it should be omitted. Recording requirements may be a protection or benefit to the applicant. However, to the extent this type of document has not been required previously, it should not impose a new requirement on providers.

o For the reasons discussed in the fees and rates section above, all *requirements for a security deposit should be eliminated at the application stage.*

o *Requirements for a performance bond should be eliminated.* The requirement for a performance bond has not been a common practice in federal wireline or wireless siting, and adding this new requirement at the application stage is both unnecessary and contrary to the policy objective of removing obstacles to accelerated broadband investment and availability. This is especially true when a national wireless provider is the applicant, and there has been no showing that a performance bond is necessary for these providers or any others at the application stage.

o *Certain information requested is too broad.* The requested fields of "Name of Officers, Members, or Owners of Concern, Partnership, etc.," "Federal EIN / State Tax ID," and "D&B Rating," lie outside of normal business purposes. The requested "FCC License" information field would not apply to certain applicants, namely, neutral-host wireless providers. The "Person Authorized to Sign Contracts" information is too detailed; there is no reason to provide detailed contact information for someone who will not be handling the day-to-day issues at the site. Moreover, most companies have multiple potential signing parties, but this form only allows for one. Finally, more feedback on what numbers 1 and 7 are meant to reference on the "Potential Document Check List" would be helpful to applicants.

- *GSA should clarify the title of the proposed common form application.* In its request for public comments, GSA referred to the proposed application as the "Wireless Telecommunications Industry Application"; however, the application form is titled "Wireless Telecommunications Company Application." For clarity and consistency, GSA should clarify the title of the common form application.

- *Application forms should be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way.* Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right-of-way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA application form for new wireless infrastructure requests, and for amendments to existing wireless infrastructure.

Unpredictable processes across agencies

The Working Group urges that broadband infrastructure siting processes should be harmonized across agencies to the extent possible. Also, there should be consistency in how files are processed by the various offices within each agency. Each agency should create a uniform process within each of its regional, state, and field offices.

To ease the burden of the applicant communicating with multiple agencies involved with a site with their varying processes, the Working Group recommends a standardized approach to mapping out which agencies will be involved with a project early on in the application process. There should be a process to ensure that relevant information is shared with the federal agencies involved. Such a system can be executed through the GSA Common Form Application or a similar common application if there is a field on the application to check a box for potentially involved agencies. GSA should mandate standard template contract(s) that apply across all federal agencies. These contracts should be executable in 30-60 days.

Additionally, the Working Group suggests that agencies measure the number of contracts they sign for new sites and new carriers on existing sites. Tracking executed contracts will help measure whether broadband deployment is in fact increasing on federal lands and property. There should be incentives for agencies approving applications. One such incentive could be that agencies receive partial fee retention through, for example retaining initial rents.

All federal agencies with land management authority should update and harmonize their rights-of-way rules. For example, Department of Interior agencies should update its rights-of-way rules to align to the Bureau of Indian Affairs updated rights-of-way rules with respect to application timelines, effective in 2016. Each agency should conduct a thorough evaluation of their siting rules and processes and streamline them to reduce burdens and encourage investment in broadband deployment. Certain federal land management agencies follow regulations that require infrastructure providers to hold FCC licenses or utilize agreements with the same requirement. These provisions are holdovers from when licensed carriers constructed their own infrastructure.

Policy changes such as allowing applicants to opt in to the rates, terms, and conditions of other providers located at the federal property would encourage investment. Once a federal property is opened for any telecommunications provider, then the property should be open to any and all other providers, without delay, on a non-discriminatory basis to the extent feasible by engineering standards. For example, if one provider's equipment is located on a water tank, then a subsequent provider should be permitted to collocate, as engineering permits, on that same water tank in a substantially similar, but not necessarily identical fashion, opting into the rates, terms and conditions of the initial provider's lease or easement or other legal arrangement. This procedure is consistent with, and may be required by, the anti-discrimination requirement in Section 704(c) of the Telecommunications Act.

Additionally, access to federal lands sites for wireless infrastructure development should be available to tower owners, operators, managers, and other authorized personnel, where applicable. Obvious exceptions for security reasons aside, infrastructure providers need to be able to access the sites quickly, especially in the case of emergencies. Federal agencies should be directed to recognize tower operator sublease and management interests. Some agencies do not consider that tower operators lease or manage a significant number of towers that are still owned by the carriers.

4. Cumbersome historic and environmental review processes

The Working Group recommends that environmental assessments be harmonized across agencies to reduce confusion and redundancy. Environmental impact studies should be valid for a reasonable amount of time so they do not have to be redone. Where surveys or other studies are completed as part of the environmental review, those findings should be available to federal agencies and applicants to use during the reasonable time period.

All federal agencies should ease permitting requirements in previously disturbed areas that have previously undergone environmental review. All federal agencies should streamline their National Historic Preservation Act (NHPA) historic preservation review process by finalizing a list of broadband activities exempted from Section 106 consultation. The Working Group recommends that the FCC expand E106 & FCC Tower Construction Notification System program. All federal agencies should also finalize NEPA categorical exclusions that will exempt broadband projects from Environmental Assessments for sites that involve, for example, cell site compounds, aerial cable, and previously disturbed grounds.

The Advisory Council on Historic Preservation (ACHP) should clarify applicability of its new *Program Comment for Communications Projects on Federal Lands and Property*[9] to all federal agencies, revising the introduction, "Federal LMAs/PMAs may elect to follow this Program Comment in lieu of the procedures in 36 CFR §§800.3 through 800.7 for individual undertakings falling within its scope." To avoid confusion, "may elect" should be struck and ACHP should affirmatively require the use of the Program Comment by all federal agencies. The Working Group recommends the following additional changes to the Program Comment:

[9] ACHP Program Comment.

1. The Program Comment should be revised to apply to all Federal Land Managing Agencies (LMAs) and Federal Property Managing Agencies (PMAs). As currently drafted, elective utilization of the Program Comment process does not ensure the expedited and efficient siting procedures necessary to better serve the exponentially growing data demands on networks and the underlying infrastructure.
2. Agencies should be required to process and respond to each application within a specified time period—no more than 60 days.
3. If requested or needed, a walk-out of the property with the requesting provider and responsible personnel of the agency should occur within 30 days of the filing of an application, and the provider may file a revised, more detailed application, reflecting the input and discussion with the responsible agency personnel during the property walk-out. If an application is revised, it should be approved within 60 days of the submission of the revised application. The agency should notify the applicant within 10 days of receipt if the agency believes the application is not materially complete and needs to be amended or modified. If an application is rejected, the decision should list in writing all factual, policy, and legal grounds for rejection as well as a contact person for escalation. Applicants should have a right to cure their application by making corrections based on written grounds for rejection received.
4. Throughout the application process, Federal LMAs and PMAs should be required to provide application status updates at the request of applicants. Greater transparency during and after the application process has completed will improve the application submission process and will provide documentation for applicants to use with other historic preservation review processes such as the FCC's NEPA review process
5. Applications that are neither formally approved nor rejected within 180 days of submission for initial installation requests (or 90 days in the case of collocations or modifications) should be deemed approved. These timeframes are similar timeframes to what the FCC established for municipalities in land use approvals to expedite broadband infrastructure deployment. Without this safeguard, applications may languish for years with no action taken by the federal agency, which is contrary to the national policy promoting broadband throughout all federal properties.

Lastly, the Working Group recommends a thorough evaluation of the August 15, 2017 Executive Order 13807 *Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*. The Order incorporates "broadband internet" projects in its efforts to "ensure that the Federal environmental review and permitting process for infrastructure projects is coordinated, predictable, and transparent." Agencies should be held accountable to implement the order's directives within a specified time period.[10]

[10] Secretarial Order 3355, *Streamlining NEPA and Implementation of Executive Order 13807 Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects* (Dep't of Interior Aug. 31, 2017) (DOI began its Executive Order implementation), available at https://elips.doi.gov/elips/0/doc/4581/Page1.aspx.

5. Lease and renewal terms that do not incentivize investment

The Working Group recommends that executive agencies utilize easements or leases with 30 or more-year terms with expectancy of renewal for wireline or wireless siting requests. The Telecommunications Act and 10 U.S.C. §§ 2667 & 2668 contemplate that executive agencies may permit telecommunications facilities installations on federal property through the use of easements or leases. Executive agencies should be notified that leases are not required for wireline or wireless installations, but that easements are an acceptable legal transaction for the placement of wireline and wireless facilities on federal property. Agencies should also be notified that to minimize the cost— on both the agency and the provider—of future siting applications, and given the extensive capital investment of long-lived assets required for the installation of wireline and wireless infrastructure, it is in the public interest for applications to lead to leases or easements with terms at least 30 years long and with renewal expectancy.

Ideally, lease terms should extend to the useful life of the assets. The Working Group urges the standardization of lease terms within each type of technology. To avoid holdover leases, agencies should begin the lease renewal process five years in advance of expiration of the lease. Site agreements often expire without a clear path to renewal. Agency rights to terminate leases should be limited to reasons of national security.

6. *Unclear points of contact for local, state, and federal leads for agencies*

The Working Group recommends that GSA, or other designated agency, should require each agency to provide a contact person for handling applications related to each property. Under GSA's Common Form Application Section "Potential Antenna Lessee Document Check List," the form states that a provider may contact the "Contracting Officer or the Contracting Officer Representative listed on the application..." GSA should clarify that all executive agencies must provide and maintain a current online listing of the name and contact information for a contracting officer or representative for each federal property for industry members to contact with questions related to the application form or wireless installation process. This process should also apply to wireline broadband installations.

Each federal agency should designate a state contact that covers each state to ensure consistency across field offices, forests, and national parks. Additionally, each federal agency should have a specific page on its website for all "dedicated points of contact," along with each agency's "time to permit" information. One government entity, such as NTIA, should consistently compile this information on one online portal.[11]

[11] *See* National Telecommunications Information Administration (NTIA), Broadband Interagency Working Group, Broadband Opportunity Council Agencies' Progress Report (Dep't of Commerce Jan. 2017) (NTIA's BroadbandUSA website will house a one-stop portal), available at https://www.ntia.doc.gov/files/ntia/publications/broadband_opportunity_council_agencies_progress_report_jan2017.pdf.

The Working Group encourages each federal agency to implement an escalation or appeal process when broadband facility requests are delayed or denied. Furthermore, each agency should have an ombudsman to resolve permitting problems. Formalizing this process will ensure more consistent treatment of applications.

7. Difficulty getting updates on status of applications and lack of transparency in agency-deployment application process history

As discussed above, agencies should employ a a single online permitting application tracking mechanism. GSA, or other designated federal agency, should require each executive agency to create a single online application tracking mechanism so that the agenc(ies) and applicants can efficiently track the progress and status of an application request. This will facilitate efficient handling and processing of applications. This mechanism can also help applications stay on track to meet required timelines and serve as a useful tool to communicate about application progress and status. The tracking mechanism will identify the appropriate agency responsible, along with contact information, for a specific application. The Working Group encourages the FCC and other federal agencies to review the Administration's Federal Infrastructure Permitting Dashboard,[12] which includes infrastructure projects identified as Covered Projects under Title 41 of the Fixing America's Surface Transportation (FAST) Act, Department of Transportation projects, and other tracked projects. This dashboard is not currently used to track broadband infrastructure projects across federal agencies; however, agencies may find it efficient to track their projects in this manner.

All agencies should provide the applicant with information regarding the standard processing time for permitting at the agency (within the established shot clock) so that providers can schedule construction projects in a timely manner.

The Working Group also urges the FCC or Congress to set executive-level quantifiable goals for broadband deployments such as collecting aggregate, industry-level commitment counts to deploy broadband sites on federal lands, and agencies should publish performance against the goals. Each agency should have an identified direct-reporting lead responsible for implementation by achieving actual deployments. Federal agencies should focus on deployment results, beyond intermediary process changes. Each agency should also create deployment transparency mechanism such as a monthly web post of the number of contracts signed, new deployments, and new carriers deployed on existing sites. Every quarter, federal agencies should transparently report the number of permitting applications they have processed.

All federal Agencies should provide a regular report to identify coverage gaps and deficiencies with respect to the current status of broadband deployment on federal lands. Regular publication of information about areas designated by agencies as "telecom areas" would also be helpful. Agencies can call for public input in identifying these areas. Such reporting will enable agencies to better access broadband deployment and set quantifiable goals for broadband deployment on federal lands. Information sharing can also reveal the challenges to providing service on federal lands at an economically feasible cost and afford a platform to discuss solutions to these challenge

[12] *See* Federal Infrastructure Permitting Dashboard, available at https://www.permits.performance.gov/projects.

8. Lack of re-evaluation of processes and fees as technologies evolve

The Working Group recommends that application forms be utilized to initiate amendments to existing installations and the applicable lease, easement or right-of-way. Given the continually changing technology and rapid growth of broadband, it is common practice that broadband installations will be modified one or more times over the course of the multi-year arrangement, and some site augments may involve an amendment to the controlling legal arrangement, whether a lease, easement, right of way or otherwise. Common form applications are a convenient and logical mechanism for triggering, tracking and managing such amendments. Thus, GSA should clarify that all executive agencies shall utilize the GSA Common Form Application for new broadband infrastructure requests, and for amendments to existing broadband infrastructure.

The Working Group also urges federal agencies to incorporate small cells, distributed antenna systems (DAS), and indoor coverage into their streamlining processes. There is often a lag between the introduction or increased use of a technology and when federal agencies adopt procedures to process the siting requests. Federal agencies should create a system for how to evaluate new technologies and determine how they should be reviewed for permitting.

9. DoD siting process costly and time-consuming

The Working Group found that siting broadband facilities on Department of Defense (DoD) property presents unique challenges. Nevertheless, DoD agencies should streamline deployment as indicated in the above recommendations but in keeping with national security interests.

The DoD should reexamine rules and policies regarding the permitting and deployment of broadband within bases, including separate authorizations required for services offered over the same facilities. In some cases, cable operators have been prohibited from deploying Wi-Fi facilities for use by Americans living on military bases.

The Department of the Navy (DoN) is a good example of a DoD agency that completed a thorough example of its permitting processes and executed a path towards streamlining broadband deployment on its property. Industry successfully collaborated with the DoN for two years on the development and release of its memorandum titled "Streamlined Process for Commercial Broadband Deployment," (Navy Memo) which was signed by the Deputy Under Secretary of the Navy (DUSN) for Management on June 30, 2016.[13] The new guidelines "set a goal for DON installation to meet or exceed national averages for broadband coverage and capacity," according to the official memorandum. According to the Wireless Infrastructure Association, which coordinated industry participation, "the new wireless facility siting

[13] Dep't of the Navy, Deputy Under Secretary of the Navy Memo, *Streamlined Process for Commercial Broadband Deployment* (Jun. 30, 2016), available at http://www.doncio.navy mil/ContentView.aspx?ID=8008.

procedures cut down a project coordination and siting deployment process that could take up to five or more years to complete to less than one year."[14]

The DoN is now evaluating an update to its memo to incorporate small cells, DAS, and indoor deployments into its streamlining processes. Other DoD agencies should evaluate the effectiveness of the Navy Memo process and implementation as they develop their own broadband infrastructure siting review process.

The Working Group urges DoD agencies to employ shorter and parallel process steps, particularly making JSC review concurrent with the RFP process. Agencies should accelerate the JSC pre-work, application-to-bid mechanism to less than 30 days. Agencies should also streamline the RFP process by moving it online, reducing processing to 30 days, and allowing multiple carriers "to win" per each RFP.

Military agencies should also streamline their RF spectrum clearance processes by eliminating duplicate spectrum interference reviews where one has already been completed for a similar instillation. RF clearance should be valid for an extended period of time. Additionally, agencies should incorporate all possible spectrum bands for operation into the initial RF study so that providers do not have to repeatedly conduct studies for new deployments or new carriers being added to the neutral host.

10. Siting barriers caused by federal funding clauses

The Working Group found that some states impose restrictions on broadband infrastructure deployment in local parks developed with federal funds. For example, Virginia has a restriction that:

> property acquired or developed with LWCF [Land & Water Conservation Fund Act of 1965] assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired and/or developed shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of NPS pursuant to Section 6(f)(3) of the LWCF Act.[15]

Site reviewers in Virginia are interpreting this law as prohibiting wireless infrastructure deployment, labeling such deployment as a prohibited commercial endeavor. It is not likely that the provision of broadband services is the type of activity the Land and Water Conservation Fund Act of 1965 was trying to protect against. Therefore, the Working Group recommends that land-grant clauses precluding commercial activity from taking place on the land provided for by grant should not be interpreted to preclude broadband infrastructure deployment and provision of broadband services.

[14] Wireless Infrastructure Association, *Wireless Industry Applauds U.S. Navy's Push to Streamline Wireless Siting Process on Federal Bases* (Jul. 8, 2016), available at https://wia.org/wireless-industry-applauds-u-s-navys-push-streamline-wireless-siting-process-federal-bases/.

[15] State of Virginia, Conversion of Use General Information, available at http://www.dcr.virginia.gov/recreational-planning/document/lwcf-conversion.pdf.